

The Impact of Community/Police Interactions on Individual Civil Rights in Missouri

A Report of the
Missouri Advisory Committee to the
U.S. Commission on Civil Rights

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Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Letter of Transmittal

Missouri Advisory Committee to the U.S. Commission on Civil Rights

The Missouri Advisory Committee to the U.S. Commission on Civil Rights submits this report regarding the civil rights impact of police and community relations in Missouri, particularly disparities in the use of force on people of color. The Committee submits this report as part of its responsibility to study and report on civil rights issues in the state of Missouri. The contents of this report are primarily based on testimony the Committee heard during hearings on February 23, 2015 in St. Louis, Missouri, and August 20, 2015 in Kansas City, Missouri.

This report details civil rights concerns raised by panelists with respect to policing strategies throughout the state of Missouri and discusses the roles of municipal fragmentation, implicit biases, and responses to police misconduct in informing policing strategies and contributing to mistrust between law enforcement and the communities they serve. From these findings, the Committee offers to the Commission recommendations for addressing this problem of national importance. The Committee recognizes that the Commission has previously issued important studies about policing and civil rights nationwide and hopes that the information presented here aids the Commission in its continued work on this topic.

Missouri State Advisory Committee to the U.S. Commission on Civil Rights

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I. EXECUTIVE SUMMARY

A number of recent public incidents involving police use of force have brought concerns regarding racial disparities in policing to the forefront of national conversation. One such incident was the August 2014 killing of Mr. Michael Brown by Officer Darren Wilson in the St. Louis suburb of Ferguson, Missouri. Mr. Brown's death garnered considerable attention from the public and the media and revealed underlying tensions between the Ferguson community and its police force. Responding to the challenges of contemporary policing illuminated by the public's response to this incident, the Missouri Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) voted unanimously in November 2014 to study civil rights concerns regarding policing throughout the state of Missouri.

The Committee, cognizant of the many local and federal agencies investigating these events decided to wait to commence its investigation. The Committee held panel discussions on February 23, 2015 in St. Louis, Missouri and on August 20, 2015 in Kansas City, Missouri. These discussions focused largely on the impact of relationships between law enforcement and communities on individual civil rights, particularly disparities in the use of force on the basis of race or color.

Several prominent themes arose from these discussions:

1. Many people of color continue to live in racially segregated communities throughout Missouri, which shapes interactions and contributes to mistrust between police and communities of color.
2. Limited data on use of force by law enforcement makes it difficult to make empirical conclusions about racial disparities in policing.
3. The presence of racial biases, both explicit and implicit, can drive increased community contact with law enforcement and result in more fatal outcomes for people of color. These biases can manifest in a particularly dangerous form for black boys and young black men. Due to expanding responsibilities and limited resources for anti-bias and cultural competency training, many police departments may be ill-equipped to manage the effects of these racial biases.
4. The use of police departments as revenue-generating entities may have harmful, racially disparate effects, particularly in areas with large numbers of small, fragmented municipalities, such as across the St. Louis region.
5. Accountability from law enforcement agencies for the harm inflicted by officers is crucial to strengthening relationships with communities. This accountability may be undermined in several ways, for example: a "Code of Silence" among law enforcement officers; a lack of

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standardization of departmental policies across agencies; limited responsiveness to citizen complaints of officer misconduct, including a frequent failure to investigate and revoke certification from officers who have engaged in misconduct; and the use of grand juries in prosecuting cases involving law enforcement officers.

6. A focus on community policing and diversity in hiring practices was identified as an avenue for law enforcement agencies to begin repairing their relationships with communities.

In response to these concerns, the Committee offers the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should issue a formal request to the U.S. Department of Justice (DOJ) to:
 - A. Assess the feasibility of issuing minimum national licensure requirements, including demonstrated cultural competency, for law enforcement officers and departmental leaders serving in all city, county, and statewide capacities.
 - B. Maintain a national database of discipline records so that officers disciplined in one state cannot transfer to another state for work.
 - C. Assess the DOJ's ability to establish a governing body to handle police misconduct cases when state and local systems fail. The state agency responsible for this in Missouri was reported to be too underfunded to be effective.
 - D. Examine the use of grand juries for investigating and indicting police-involved fatalities, then define and report to the public best practices for prosecuting deaths at the hands of police, including both the possibilities of appointing independent prosecutors and pursuing accountability beyond criminal liability.
2. The Commission should issue a formal recommendation to the U.S. Department of Justice, Federal Bureau of Investigation (FBI) urging them to:
 - A. Require law enforcement agencies to report more comprehensive data on police use of force and officer-involved shootings—including non-lethal use of force, disaggregated by race. Such data is critical to better understanding potential disparities in police conduct, as well as the impact on affected communities.
 - B. Create standardized definitions of all actions that fall on the use of force continuum and disseminate these to local agencies in order to ensure consistent data collection.
 - C. Consider offering financial and/or technical support to ensure smaller, local agencies with limited resources can keep up with data collection.

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3. The Commission should issue a formal request to the U.S. Department of Justice, Civil Rights Division to:
 - A. Conduct a comprehensive investigation into the civil rights consequences of local law enforcement agencies owning military-grade equipment, including (1) which agencies are receiving or purchasing this military-grade equipment, (2) which communities it is being used in, and (3) what racially disparate effects may exist in its use.
 - B. Investigate the allegations laid out in this report to the effect that “hot spot” policing practices may threaten civil liberties and thereby contribute to a climate of mistrust.
 - C. Investigate the extent to which law enforcement departments may unconsciously favor “hot spot” policing methods over community policing because “hot spot” policing produces more visible and immediate results.
4. The Commission should issue a formal recommendation to the Department of Justice, Community Oriented Policing Services (COPS) to include the provision that new law enforcement hires made using COPS Hiring Program grant funds must demonstrate proficiency in cultural competency prior to being employed. The importance of cultural competency in implementing community policing initiatives was underscored throughout testimony provided to the Committee. Therefore, if a stated goal of the COPS Hiring Program is to increase community policing capacity in local agencies, the officers involved in community initiatives must be adequately prepared.
5. The Commission should issue a formal recommendation urging the United States Congress to pursue legislation that would decouple law enforcement agencies from municipal revenue generation, similar to Missouri Senate Bill 5, which caps the amount of general operating revenue that can be collected from traffic fees, and other collateral fees that result, such as warrant fines and fees.

II. INTRODUCTION

The U.S. Commission on Civil Rights (Commission) is an independent, bipartisan agency established by Congress and directed to study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, national origin, or in the administration of justice. The Commission has established advisory committees in each of the 50 states and the District of Columbia. These State Advisory Committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction.

On November 17, 2014, the Missouri State Advisory Committee (Committee) to the U.S. Commission on Civil Rights voted unanimously to take up a proposal to better understand current civil rights concerns regarding policing in Missouri. Specifically, the Committee elected to examine potential differences in police officers' use of force on the basis of race or color. As part of this inquiry, the Committee hosted two public hearings to obtain testimony from academics, government officials, law enforcement, community advocates, and law professionals. The panelists' testimony focused on current civil rights concerns as they relate to police use of force, as well as police policies and practices. The agenda also included an open forum for discussion whereby members of the public were invited to provide their own personal testimony to the Committee.

The purposes of this report are: (1) to relay the civil rights concerns brought forth by the panelists as they relate to disparities in police use of force; and (2) to lay out specific recommendations to the Commission regarding actions that can be taken to better understand and address these issues. The report begins with a brief account of recent events involving police use of force in Missouri specifically, and the U.S. more broadly. It then offers an analysis of the civil rights concerns presented in testimony during the hearings on February 23, 2015 in St. Louis, Missouri, and August 20, 2015 in Kansas City, Missouri. It concludes with a series of specific findings and recommendations to the Commission to further address these issues. The Committee hopes that the findings and recommendations presented in this report will contribute to the Commission's understanding of this important issue in Missouri. Furthermore, the Committee hopes that this report will support the Commission's role in addressing this issue of national relevance.

III. BACKGROUND

In 1981, the Commission issued a seminal report on police practices in America, *Who is Guarding the Guardians?*¹ Twenty years later the Commission issued a follow-up report, *Revisiting Who is Guarding the Guardians?*² Both reports raised troubling concerns about insular police practices that undermine equal protection under the law. The Missouri Advisory Committee itself also released reports in 1994 and 1999 citing concerns over race relations in the administration of justice, including a lack of diversity on the police force and mistrust between community members and police in Springfield,³ as well as excessive use of force and racially biased reporting in Caruthersville.⁴

Now, more than thirty years after the Commission's first report on police practices, a number of public incidents involving police conduct have returned such concerns to the forefront of national conversation. One such incident occurred on Saturday, August 9, 2014, when Michael Brown, an unarmed black teenager, was shot and killed by Darren Wilson, a white police officer, in Ferguson, MO, a suburb of St. Louis. Reports released at the time of this incident indicated that Officer Wilson initially approached Mr. Brown for jaywalking, and the interaction escalated into an altercation. Ferguson police stated that Mr. Brown leaned into Officer Wilson's car and struggled for the officer's gun. After shots were fired inside the car, Mr. Brown began running away and Officer Wilson pursued him on foot. Officer Wilson stated that Mr. Brown then turned and charged at him, which caused Officer Wilson to fire ten rounds at Mr. Brown, fatally wounding him. However, some witnesses said that Mr. Brown's hands were raised, indicating surrender when Officer Wilson fired the fatal shots.⁵ Over a month later, on September 25, 2014, Ferguson Police Chief Thomas Jackson issued an apology to the family of Michael Brown.⁶ The community responded to Mr. Brown's killing with a series of protests, both peaceful and violent. In turn, local and county police departments' responded to protests in a manner that was widely criticized as forceful and militaristic, including the use of armored vehicles, smoke canisters, and tear gas to dispel the crowds.⁷ Ultimately a grand jury decided

¹ U.S. Commission on Civil Rights, *Who Is Guarding the Guardians?* October 1981.

² U.S. Commission on Civil Rights, *Revisiting Who is Guarding the Guardians?* November 2000. Available at: <http://www.usccr.gov/pubs/guard/main.htm>. (last accessed June 10, 2016)

³ Missouri Advisory Committee to the US Commission on Civil Rights. *Race Relations in Springfield*: August 1999. (p. 2-3)

⁴ Missouri Advisory Committee to the US Commission on Civil Rights. *Race Relations in Pemiscot County*: October 1994 (p23-25).

⁵ The New York Times. *What Happened in Ferguson?*, Aug. 22, 2014, available at: http://www.nytimes.com/interactive/2014/08/13/us/ferguson-missouri-town-under-siege-after-police-shooting.html?_r=0 (last accessed June 10, 2016)

⁶ St. Louis Post Dispatch, *Ferguson Police Chief Apologizes to Michael Brown's Family in Video*. Sept. 26, 2014. Available at http://www.stltoday.com/news/local/crime-and-courts/ferguson-police-chief-apologizes-to-michael-brown-s-family-in/article_d3d7e590-ed82-510d-a83f-400438ceb83d.html (last accessed June 15, 2016)

⁷ USA Today. *Police in Ferguson Ignite Debate about Military Tactics*. Aug. 19, 2014, available at: <http://www.usatoday.com/story/news/nation/2014/08/14/ferguson-militarized-police/14064675/> (last accessed June 10, 2016)

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against indicting Darren Wilson,⁸ but the responses to this incident on the part of both the community and the Ferguson Police Department suggest the presence of deep tension and mistrust.

Following Michael Brown's death, the Federal Bureau of Investigation, the United States Department of Justice (DOJ), and the United States Attorney's Office of the Eastern District of Missouri conducted their own criminal investigation, which found that the facts did not support filing criminal charges against Wilson.⁹ However, recognizing the overwhelming amount of mistrust between the Ferguson community and law enforcement officials, as well as the lack of diversity on the police force,¹⁰ the Civil Rights Division of the DOJ initiated a concurrent investigation of possible violations by the Ferguson Police Department of the following federal civil rights statutes:¹¹

- The Violent Crime Control and Law Enforcement Act of 1994,¹² which allows the DOJ to review the practices of law enforcement agencies that may be violating people's constitutional and federal statutory rights; and
- The anti-discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968¹³ and Title VI of the Civil Rights Act of 1964,¹⁴ both of which forbid discrimination on the basis of race, color, sex or national origin by agencies receiving federal funds.

This DOJ investigation revealed a system in which law enforcement's actions were driven by the City of Ferguson's revenue needs, "independent of any public safety need."¹⁵ The practices of the City's municipal court and police department resulted in both unintended and explicit racial

⁸ ABC News, *Ferguson Grand Jury Does Not Indict Darren Wilson in Death of Michael Brown*, Nov. 24, 2014, available at: <http://abcnews.go.com/US/ferguson-grand-jury-indict-officer-darren-wilson-death/story?id=27146400> (last accessed June 10, 2016)

⁹ United State Department of Justice: Office of Public Affairs. *Attorney General Holder Delivers Update on Investigations in Ferguson, Missouri*. March 5, 2015. Available at: <http://www.justice.gov/opa/speech/attorney-general-holder-delivers-update-investigations-ferguson-missouri> (last accessed June 10, 2016)

¹⁰ United States Department of Justice: Office of Public Affairs. *Attorney General Holder Delivers Remarks at Press Conference Announcing Pattern or Practice Investigation into Ferguson Police Department*. Sept. 4, 2014. Available at: <http://www.justice.gov/opa/speech/attorney-general-holder-delivers-remarks-press-conference-announcing-pattern-or-practice> (last accessed June 10, 2016) Hereafter cited as *Holder Remarks, September 4, 2014*.

¹¹ Dept. of Justice: Civil Rights Division. *Addressing Police Misconduct Brochure*. available at: <http://www.justice.gov/crt/about/spl/documents/polmis.php> (last accessed June 10, 2016)

¹² 42 U.S.C. § 14141

¹³ 42 U.S.C. § 3789d

¹⁴ 42 U.S.C. § 2000d

¹⁵ The United States Department of Justice Civil Rights Division Report, *Investigation of the Ferguson Police Department*, p. 10. Released on March 04, 2015. Available at: http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf (last accessed June 10, 2016) Hereafter cited as *DOJ Ferguson Report, 2015*.

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bias against black residents in particular, violating the First, Fourth, and Fourteenth Amendments to the United States Constitution, and federal statutory law.¹⁶

Mr. Brown's death may have garnered the most media attention, but it was not an isolated incident in Missouri or nationwide. To the Committee's best knowledge, no verified national database of killings by law enforcement existed at the time of this report's publication. In order to bring attention to the magnitude of this problem, several news outlets and community groups have attempted to construct their own comprehensive accounts of deaths at the hands of police nationwide using crowdsourced databases, police reports, social media, local news reports, and open records requests.¹⁷ As stated by the creators of the Mapping Police Violence project, "We cannot wait to know the true scale of police violence against our communities."¹⁸ The Guardian's project, *The Counted*, reports that 1,145 people were killed by police in 2015, 22 of whom were killed in Missouri. In their data, black people were killed by police at over twice the rate of white people nationally in 2015 (7.25 per million black people versus 2.94 per million white people).¹⁹ Not only are police killings and the lack of comprehensive data about them an issue of national importance, it is also an issue of immediate urgency, especially for communities that are most affected.

Additional evidence suggests a broader pattern of racial disparities in police department practices. Annual data collected by the Missouri Attorney General reveals that black people are 75% more likely to be subject to traffic stops by police than white people—a trend that has steadily increased in 12 of the past 15 years in which similar data has been collected—despite white drivers being more likely to be carrying contraband.²⁰ Police departments around the country are also struggling to implement fair practices. Nationally, between 2009 and 2014, the Civil Rights Division of the DOJ prosecuted more than 300 individual officers for misconduct, and opened more than 20 investigations into the practices and patterns of law enforcement agencies—more than twice the number of investigations that were opened in the preceding five fiscal years.²¹ In 2014, the DOJ was also enforcing 14 agreements to reform law enforcement practices, which the Department claims have decreased the incidence of excessive use of force,

¹⁶ DOJ Ferguson Report, 2015, p. 01.

¹⁷ These projects include The Guardian's *The Counted*, available at: <http://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database>; The Washington Post's *Fatal Force*, available at: <https://www.washingtonpost.com/graphics/national/police-shootings-2016/>; Mapping Police Violence's database, available at: <http://mappingpoliceviolence.org/>; and Fatal Encounter's database, available at: <http://www.fatalencounters.org/> (last accessed June 10, 2016)

¹⁸ Mapping Police Violence, *About the Data*, available at: <http://mappingpoliceviolence.org/aboutthedata/> (last accessed June 10, 2016)

¹⁹ The Guardian, *The Counted*, available at: <http://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database>. (last accessed June 10, 2016)

²⁰ Missouri Attorney General Chris Koster 2014 Missouri Vehicle Stops. Available at: <https://ago.mo.gov/home/vehicle-stops-report/2014-executive-summary> (last accessed June 10, 2016)

²¹ Holder Remarks, September 4, 2014

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created greater equity in the delivery of police services, and improved the relationship between communities and their law enforcement agencies.²²

In light of this evidence, the Missouri Advisory Committee sought to examine how the events in Ferguson may indicate a broader trend in the state of Missouri, particularly whether police department practices and procedures may contribute to disparities in the frequency of police contact and the severity of use of force in communities of color.

²² *Holder Remarks, September 4, 2014*

IV. SUMMARY OF PANEL TESTIMONY

Both the panel discussions in St. Louis, MO on February 23, 2015 and in Kansas City, MO on August 20, 2015 included testimony from academics, government officials, law enforcement officers, community members, advocates, and the public.²³ The panelists were selected to provide diverse and varied viewpoints on the issue of police use of force. Although the testimony of these panelists and members of the public offered many important insights and perspectives, this report will focus only on testimony directly related to civil rights concerns regarding disparities in police contact and use of force on the basis of race or color. While a number of other worthy topics were raised, those matters that may have fallen outside of this specific civil rights mandate are left for another discussion.

a. Historical Context

In remarks to the Colorado Lawyers' Committee, Principal Deputy Assistant Attorney General Vanita Gupta of the Department of Justice linked black communities' mistrust of police to the role police had in enforcing and perpetuating slavery, the Black Codes, and Jim Crow laws.²⁴ With the distance afforded by the passage of time, it is apparent that police, working as agents of the state, were charged with enforcing racially discriminatory policies. The crucial task now is to examine what vestiges of these policies may persist in contemporary policing and how the memories of this past may shape current interactions between police and communities of color. As FBI Director James Comey stated in remarks at Georgetown University, "One reason we cannot forget our law enforcement legacy is that the people we serve and protect cannot forget it, either. So we must talk about our history. It is a hard truth that lives on."²⁵ Testimony provided to the Committee revealed that this country's history of slavery, residential segregation, and economic divestment from black communities have allowed discriminatory elements of policing to persist.

The history of strained relations between black people and the police begins with the slave patrols of the 18th Century American South, which W.E.B. DuBois described as a "system of rural police" designed to control slaves.²⁶ While these patrols differed considerably from our modern conception of police, policing practices through the mid-twentieth Century served

²³ Detailed meeting agendas are available in Appendix A. See Appendix C for invited panelists who declined or were unavailable.

²⁴ United States Department of Justice: Office of Public Affairs. *Principal Deputy Assistant Attorney General Vanita Gupta Delivers Remarks at the Colorado Lawyers Committee Annual Lunch*. May 19, 2015. Available at: <http://www.justice.gov/opa/speech/principal-deputy-assistant-attorney-general-vanita-gupta-delivers-remarks-colorado> (last accessed June 10, 2016)

²⁵ Comey, James B. *Hard Truths: Law Enforcement and Race*. Feb. 12, 2015. Available at: <https://www.fbi.gov/news/speeches/hard-truths-law-enforcement-and-race>. (last accessed June 10, 2016)

²⁶ DuBois, W.E.B. *Some Notes on Negro Crime Particularly in Georgia*. Atlanta University Press, 1904. Available at: <http://scua.library.umass.edu/digital/dubois/dubois9.pdf> (last accessed June 10, 2016)

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similar roles. Dr. Stefan Bradley, a historian at St. Louis University, testified about this history, beginning with the spike in incarceration following the Civil War. He stated, “The penal system in many ways became a form of social control for the African American community.”²⁷ He continued by recounting the racial tension that grew as black families moved into urban areas largely populated by whites. This tension came to a breaking point in the St. Louis area during the 1917 East St. Louis riots. Dr. Bradley noted the police department’s role during these violent riots: “Police abused power by arresting black victims of white rioters, confiscated legal weapons that black victims used to protect themselves, and also prevented East St. Louis evacuees from leaving the city.”²⁸ In more recent years, he attributed the effects of the War on Drugs to the strained relationship between the black community and law enforcement officers.²⁹

Past economic and housing policies contributed to current tension between black communities and law enforcement by creating poorer, more segregated black communities, which have now become the focus of “Broken Windows” and “zero-tolerance” policing strategies.³⁰ Ms. Tishaura Jones, Treasurer for the City of St. Louis, stated that the “economic deck has been stacked against African Americans from the start” and pointed to several policies that contributed to such economic and racial segregation, including the home ownership policies of the Federal Housing Administration (FHA).³¹ Under FHA policies, mortgages were approved based on the racial and wealth composition of an area, favoring new developments in suburban areas. In conjunction with racial covenants, this encouraged home ownership among white people, drawing them out into the suburbs, while simultaneously making home ownership difficult for black people.³² This divestment from urban areas moved a significant amount of wealth into the suburbs and created geographically concentrated racial and class distinctions. Ms. Pamela Meanes, President of the National Bar Association, testified to some of the effects of these practices in St. Louis:

Dating as far back as 1960s, clusters of people set themselves up as municipalities to improve services or to capture control of the tax revenue generated by local businesses or to avoid paying taxes to support poor neighborhoods or in some cases, to exclude African-Americans. The natural result is a county whose towns are highly segregated by both race and income.³³

²⁷ Stefan Bradley, testimony before the Missouri Advisory Committee to the U.S. Commission on Civil Rights, St. Louis, MO, February 23, 2015. Transcript p. 12 lines 16 through 18. Available at <http://database.faca.gov/committee/historymeetingdocuments.aspx?flr=126050&cid=258&fy=2015>. (last accessed June 15, 2016) [Hereafter cited as *St. Louis Transcript*]

²⁸ Bradley Testimony, *St. Louis Transcript*, p. 13 line 24 through p. 14 line 03.

²⁹ Bradley Testimony, *St. Louis Transcript*, p. 15 line 23 through p. 16 line 03.

³⁰ “Broken Windows” refers to a policing strategy in which police maintain orderly streets by punishing even small signs of misbehavior, in order to prevent more serious crimes from developing. For more information, visit “The Economist Explains: What ‘broken windows’ policing is”. January 2015. Available at: <http://www.economist.com/blogs/economist-explains/2015/01/economist-explains-18> (last accessed June 15, 2016)

³¹ Jones Testimony, *St. Louis Transcript*, p. 229 line 24 through p. 230 line 11.

³² For more information on the government policies that led to suburbanization and segregation of metropolitan areas, see Kenneth Jackson’s *Crabgrass Frontier: The Suburbanization of the United States* (Oxford University Press, 1985).

³³ Meanes Testimony, *St. Louis Transcript*, p. 72 lines 11 through 19.

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Ms. Jones attributed some of the disproportionate contact between black Americans and police to this economic disparity and residential segregation. Municipalities that have less economic assets, where property values are low, earn less through taxes and are more likely to turn to police-enforced fines to account for needed revenue.³⁴ Dr. Ken Novak also testified to the association of economic divestment from black communities and the disproportionate contact of people of color with law enforcement, stating, “Police deploy more officers and more resources to communities with the greatest need, including crime and disorder, and these communities are typically characterized by economic, educational, and healthcare disadvantage. Within American society, these communities are disproportionately black and Hispanic.”³⁵

A report by the Economic Policy Institute entitled *The Making of Ferguson* goes beyond disproportionate contact to include police violence against black people, arguing that the killing of Michael Brown cannot be understood or addressed without this history. Author Richard Rothstein writes, “A century of evidence demonstrates that St. Louis was segregated by interlocking and racially explicit public policies of zoning, public housing, and suburban finance, and by publicly endorsed segregation policies of the real estate, banking, and insurance industries.”³⁶ He argues for the importance of understanding this history: “The conditions that created Ferguson cannot be addressed without remedying a century of public policies that segregated our metropolitan landscape. Remedies are unlikely if we fail to recognize these policies and how their effects have endured.”³⁷

While these policies have since been reformed and police practices are increasingly focused on understanding and engaging the communities they serve, Mr. Rothstein’s sentiment seems to capture the feelings of these panelists: “Policies that are no longer in effect and seemingly have been reformed still cast a long shadow.”³⁸

b. Data

Insufficient data exists about the characteristics of police shootings nationally to draw meaningful data-driven conclusions or make evidence-based recommendations regarding disparities in use of force on the basis of race or color. Currently, the Bureau of Justice Statistics’

³⁴ Jones Testimony, *St. Louis Transcript*, p. 230 lines 16 through 25.

³⁵ Ken Novak, testimony before the Missouri Advisory Committee to the U.S. Commission on Civil Rights, Kansas City, MO, August 20, 2015. *Transcript*, p. 21 line 24 through p. 22 line 05. Available at <http://database.faca.gov/committee/historymeetingdocuments.aspx?flr=132081&cid=258&fy=2015>. (last accessed June 15, 2015) [Hereafter cited as *Kansas City Transcript*]

³⁶ Rothstein, R. *The Making of Ferguson*, p. 30. Economic Policy Institute, Oct. 15, 2014. Available at: <http://www.epi.org/publication/making-ferguson> (last accessed June 10, 2016) [Hereafter cited as *The Making of Ferguson*]

³⁷ *The Making of Ferguson*, p. 2.

³⁸ *The Making of Ferguson*, p. 4.

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only data on use of force is instances of arrest-related deaths,³⁹ which do not necessarily capture all officer-involved shootings or most use of force incidents. Dr. Richard Rosenfeld, criminologist at University of Missouri St. Louis, testified that only about 16 percent of police shootings in St. Louis over the past decade resulted in the death of a victim, suggesting that data collection needs to be expanded to nonfatal outcomes of police use of force in order to have a meaningful discussion in Missouri and nationwide.⁴⁰

Dr. Rosenfeld's testimony reveals that little is actually understood empirically about police use of force. This missing data prevents the development of an empirical understanding about broader trends in officer use of force, including trends of particular importance to this inquiry, such as severity of outcomes or the existence of biases.⁴¹ This absence of data is in some part due to the large spectrum of force that police officers can implement while interacting with suspects, which contributes to a blurry definition of what data should be collected.⁴² According to the National Institute of Justice, force ranges from verbal demands of a suspect to the use of lethal force.⁴³ Given this broad range, obtaining consistency across data collection is difficult.⁴⁴

Panelist Justin Hansford, Law Professor at St. Louis University, echoed Dr. Rosenfeld's statement, noting that "many uses of force don't involve killing, but they have a great deal of impact on victims and their families." He suggested the "adopt[ion of] standardized data collection practices in the state and on the national level so that we can have these conversations not driven by ideology or rhetoric but driven by data."⁴⁵ The Committee too believes that this conversation would be greatly improved by the existence of adequate data.

c. The Role of Implicit Racial Bias

Panelists generally believed that most police officers do not act upon explicit racial biases. However, many spoke of the role implicit racial biases play in police officers' interactions with community members, resulting in disproportionate contact between law enforcement and people of color. Panelist Damon Daniel, Executive Director of the Ad Hoc Group Against Crime in Kansas City, provided a definition of implicit bias:

[I]mplicit bias refers to the attitudes or stereotypes that affect our understanding, actions, decisions, in an unconscious manner. These biases, which encompass both favorable and

³⁹ Bureau of Justice Statistics, Arrest-Related Deaths. More information available at: <http://www.bjs.gov/index.cfm?ty=tp&tid=82> (last accessed December 04, 2015)

⁴⁰ Rosenfeld Testimony, *St. Louis Transcript*, p. 23 lines 12 through 17 and p. 24 lines 05 through 10.

⁴¹ Rosenfeld Testimony, *St. Louis Transcript*, p. 28 lines 03 through 20.

⁴² Rosenfeld Testimony, *St. Louis Transcript*, p. 52 line 22 through p. 53 line 19.

⁴³ For more information, see the National Institute of Justice's Use of Force Continuum. Available at : <http://www.nij.gov/topics/law-enforcement/officer-safety/use-of-force/Pages/continuum.aspx> (last accessed June 10, 2016)

⁴⁴ Rosenfeld Testimony, *St. Louis Transcript*, p.52 line 22 through p. 53 line 03.

⁴⁵ Hansford Testimony, *St. Louis Transcript*, p.30 lines 09 through 11 and lines 03 through 06.

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unfavorable assessments, are activated involuntarily and without an individual's awareness or intentional control. Residing deep in the subconscious, these biases are different from known biases that individuals may choose to conceal for the purposes of social or political correctness.⁴⁶

Sarah Rossi from the Missouri ACLU testified that black drivers in 2014, for example, were 75 percent more likely to be stopped than white drivers. This number was only 31 percent in 2000, indicating that this problem is getting worse.⁴⁷ In addition to increased contact, panelists discussed several ways in which implicit biases play a role in the relationships between communities of color and the police.

i. Bias towards black children

Current research suggests that black children, particularly black boys, are often perceived as older, less innocent, and thus more responsible for their actions than their same-age white peers. This research further suggests that these associations lead to racial disparities in the policing of children. In her testimony, Dr. Marva Robinson of the Association of Black Psychologists referenced the research of Dr. Phillip Goff, which found that racial disparities in the treatment of children by police were a consequence of the dehumanization of black Americans.⁴⁸ Goff's work defines dehumanization as the "denial of full humanness to others."⁴⁹ Slavery is an obvious example of this dehumanization, but it also exists in less apparent ways, like the ubiquity of harmful stereotypes about black people. Even when dehumanization is not combined with explicit prejudice, it can lead to the removal or lessening of social protections from violence.⁵⁰ Typically, adults feel compelled to protect children and are quick to assume innocence from them. As a result of dehumanization, however, black children are perceived as older (approximately four years on average) and therefore less deserving of such protections normally afforded to children.⁵¹ Black children's mistakes are less likely to be excused as the normal blunders of childhood.

In her testimony, Dr. Robinson expanded upon this research by noting the tendency of police officers in the media to refer to young black children as men or teenagers.⁵² Dr. Robinson summarized that the misbehaviors of black children are often seen as acts of malicious intent, as opposed to the child-like errors assumed of white children.⁵³ As a consequence, black children, especially boys, are at risk during their interactions with police officers who will likely, albeit

⁴⁶ Daniel Testimony, *Kansas City Transcript*, p. 111 line 17 through p. 112 line 03.

⁴⁷ Rossi Testimony, *Kansas City Transcript*, p. 100 lines 02 through 04 and lines 09 through 12; See also: the Missouri Attorney General's data on vehicle stops in 2014, available at: <https://ago.mo.gov/home/vehicle-stops-report/2014-executive-summary> (last accessed June 15, 2016)

⁴⁸ Goff, Phillip Atiba, et al. *The Essence of Innocence: Consequences of Dehumanizing Black Children*. Journal of Personality and Social Psychology, 2014, Vol. 106 No. 4, 526-545. [Hereafter cited as *The Essence of Innocence*]

⁴⁹ *The Essence of Innocence*

⁵⁰ *The Essence of Innocence*

⁵¹ *The Essence of Innocence*

⁵² Robinson Testimony, *St. Louis Transcript*, p. 42 lines 13 through 14.

⁵³ Robinson Testimony, *St. Louis Transcript*, p. 49 lines 16 through 18.

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unconsciously, perceive them as older and therefore more culpable. Dr. Robinson concludes, “African-American children are not given that—that ability to be children or to be seen as innocent.”⁵⁴

In the portion of Dr. Goff’s study conducted with police officers, anti-black dehumanization scores in particular predicted racial disparities in police use of force against children.⁵⁵ Although it may be difficult for some to imagine a situation in which police officers feel compelled to use force against a child, the killing of twelve-year-old Tamir Rice by police officers while Tamir was playing with an airsoft gun in the park offers such an example.⁵⁶ Of particular interest is the finding that scores on Dr. Goff’s anti-black dehumanization measure predicted racial disparities in the perceived culpability of children while typical assessments of anti-black biases did not,⁵⁷ meaning that current approaches to anti-bias measurement and education in police academies and departments may be missing an area of vital importance.

Acknowledging this danger, several panelists described the painful necessity of equipping black children in their community with survival strategies for interacting with police. Reverend Traci Blackmon described her church’s “Come Home Alive” initiative, which teaches children how to behave with police officers:

While this may be necessary, it grieves my heart because we are protecting them, but we are also creating a climate in which our young people are being taught to fear those who are supposed to serve and protect, and I don’t have the answer to that, but it troubles me that something is wrong there.⁵⁸

Ms. Pamela Meanes, President of the National Bar Association, also expressed her sadness doing similar outreach:

In the same breath, I have to say to those individuals that you can do everything correctly and never say a word, and you may end up shot by the police. You may end up with them believing something you said to them was disrespectful, was not respectful of their authority, so don’t exercise your rights because you want to live to fight another day. That’s hard for a mother of four to have to tell young people that and to have to communicate that.⁵⁹

These testimonies suggest that the conclusions of Dr. Goff’s research mirror real fears within communities of color that stem from collective past experiences with police officers. While these panelists acknowledged that many police officers do not pose a threat to black children, the consequences are grave enough that letting their guards down is not worth the risk. Although Dr.

⁵⁴ Robinson Testimony, *St. Louis Transcript*, p. 49 lines 11 through 13.

⁵⁵ *The Essence of Innocence*

⁵⁶ The Guardian, *Cleveland Police Shoot Dead 12-year-old Boy Holding Fake ‘Airsoft’ Gun*, 23 November 2014. Available at: <http://www.theguardian.com/us-news/2014/nov/23/cleveland-police-shoot-dead-12-year-old-boy-carrying-fake-gun> (last accessed June 16, 2015)

⁵⁷ *The Essence of Innocence*

⁵⁸ Blackmon Testimony, *St. Louis Transcript*, p.125 lines 07 through 12.

⁵⁹ Meanes Testimony, *St. Louis Transcript*, p. 69 lines 16 through 25.

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Goff's research focuses on black children, it must be remembered that the danger faced by black children stems from an implicit bias towards the dehumanization of all black individuals—a bias that is pervasive in American society.⁶⁰

ii. Escalation of interactions between community and police

Panelist testimony indicated that interactions between police and community members, particularly in communities of color, often escalate quickly. This both reflects and further contributes to the existing tensions between these groups. For example, panelists and members of the public pointed to a variety of experiences people of color have with racial profiling. Panelist Damon Daniels recounted his personal experience of “driving while black,” when police officers pulled him over and harassed him because a car that looked like his had been reported stolen.⁶¹ Ms. Alberta Mejia, a Latina community member who testified during the open forum, was held in jail for two nights and subjected to horrendous treatment after not having her Social Security Card on her during a traffic stop.⁶² In these examples, the traffic officers' initial decisions to pull over Mr. Daniels and Ms. Mejia may have been informed by racial biases of which they may not have been consciously aware. However, Mr. Daniels' and Ms. Mejia's testimonies suggest that they themselves were acutely aware of the role their race played in these interactions.

Even though police officers may not be consciously aware of the effects of biases on their decisions, people of marginalized racial groups are likely much more cognizant of the way negative stereotypes color these interactions, especially when their physical safety may be at risk. For example, research suggests that stereotypes associating black individuals with criminality become particularly salient in black men's interactions with police, triggering the experience of “stereotype threat,” which is the “concern about being judged and treated unfairly by police because of the stereotype.”⁶³ Further, in an attempt to regulate their behavior during these interactions, innocent black men are likely to exhibit physical cues of anxiety, which closely resemble those that police associate with culpability, like avoiding eye contact or “freezing up.”⁶⁴ These cues make it more likely that police will respond to them as if they are guilty of something, which will confirm their fears about being stereotyped and contribute to a continuing cycle of tense interactions. Dr. Robinson testified that “the harm of racial profiling cause[s] lowered self-esteem, increased risk of criminalization, and a lack of trust in

⁶⁰ For a longer discussion on anti-black dehumanization in the United States and its correlation with endorsing violence against black people, see Goff, Phillip Atiba, et al., *Not Yet Human: Implicit Knowledge, Historical Dehumanization, and Contemporary Consequences*. *Journal of Personality and Social Psychology*, 2008, Vol. 92, No. 2, 292-306.

⁶¹ Daniels Testimony, *Kansas City Transcript*, p. 113 line 21 through p. 114 line 22.

⁶² Mejia Testimony, *St. Louis Transcript*, p. 146 line 05 through p. 147 line 19. See also: Chavez Testimony, *St. Louis Transcript*, p. 97 lines 03 through 21. Ms. Mejia's story can be found in more detail in Appendix B.

⁶³ Najdowski, Cynthia, Bottoms, Bette, and Goff, Phillip. *Stereotype Threat and Racial Differences in Citizens' Experiences of Police Encounters*. *Law and Human Behavior*, 2015, Vol. 39, No. 5, 463-477. [Hereafter cited as *Stereotype Threat*]

⁶⁴ *Stereotype Threat*

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institutions.”⁶⁵ African American communities, she testified, are also more likely to experience trauma and its resulting symptoms of “flashbacks, nightmares, feelings of numbness, avoidance, outbursts of anger and hypervigilance.”⁶⁶ Without an understanding of the complex symptoms of trauma, police may view some of these symptoms as acts of aggression or noncompliance by the individual. Collectively, these conditions can escalate interactions very quickly between police and individuals in communities of color.

An extreme example of escalation between communities and police is the military response used by police following the killing of Michael Brown, which Pastor Floyd Wiggins III attributed to both sides feeling as if they did not have a voice.⁶⁷ Testimony heard in St. Louis recounted the effect this had on community members. Mr. Nehrt-Flores and Rev. Blackmon both spoke of the perception that police enter certain communities as if they are war zones,⁶⁸ with Rev. Blackmon elaborating that such a mindset affects the way a police officer operates and how the community perceives them.⁶⁹ Dr. Robinson also suggested that the “restructuring of peaceful residential communities into Iraqi-style war zones...inject[s] psychological stressors.”⁷⁰ Sixteen-year-old panelist Taylor Holmes reported watching the events in Ferguson from her home in Kansas City: “I don't understand why [the militarization of police] is necessary or how it's legal...Ferguson had tanks, and I sat in my bed and I cried watching the tanks roll down the street and officers and the National Guard walked down the street with guns drawn, like this was a Third World country.”⁷¹

Perhaps in part as a result of this militarization, panelist Marius Johnson-Malone, Director of Better Together, suggested both community members and police are afraid of each other. This fear not only contributes to the quick escalation of interactions between the two groups, it also undermines the police's goal of public safety. He testified:

Specifically we hear that [police] are afraid of young black men, and because of that fear, it automatically sets up a dynamic and an interaction with police that can be dangerous, can become dangerous very quickly. In fact, we heard very recently at a town hall in North City an elderly woman said that she often has problems with young men in her neighborhood, but she doesn't want to call the police, not because she's afraid of the sort of culture of silence or the retaliation from those young men but because she's afraid for their lives...I thought that was very remarkable that even when she feels unsafe, the people she's supposed to be turning to, she can't because she fears for what will happen in that situation.⁷²

⁶⁵ Robinson Testimony, *St. Louis Transcript*, p. 38 lines 05 through 08.

⁶⁶ Robinson Testimony, *St. Louis Transcript*, p. 37 lines 19 through 21.

⁶⁷ Wiggins Testimony, *Kansas City Transcript*, p. 240 line 17 through p. 241 line 09.

⁶⁸ Nehrt-Flores Testimony, *St. Louis Transcript*, p. 129 lines 05 through 11.

⁶⁹ Blackmon Testimony, *St. Louis Transcript*, p. 110 line 19 through p. 111 line 01.

⁷⁰ Robinson Testimony, *St. Louis Transcript*, p. 37 lines 06 through 10.

⁷¹ Holmes Testimony, *Kansas City Transcript*, p. 236 lines 03 through 08.

⁷² Johnson-Malone Testimony, *St. Louis Transcript*, p. 78 lines 05-22.

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This testimony points to biases both groups hold about each other that likely are called upon—whether consciously or unconsciously—in their interactions. It also suggests that, as long as these attitudes are still alive, these communities and police will have a difficult time working together. Mr. Herston Fails, President of 100 Black Men of Greater Kansas City, explained the ways community members are working to change these interactions and then asked that they see the same from police: “We have to see that, ‘Okay. Enforcement is different now. Police are involving themselves in activities with us, not against us. They’re showing up for more things than to arrest us or when things escalate out of control.’”⁷³ Police departments, with their great deal of power and authority, are in the position to assume responsibility for changing what policing looks like and repairing these relationships, regardless of biases held by the communities in which they work.

iii. Anti-bias training in police academies and continuing education

The potentially serious consequences of bias in policing suggest that anti-bias training is of critical importance to initial and continuing police education. At the time of these hearings in 2015, the Missouri Peace Officer Standards and Training (POST) Commission, the body that oversees police training and certification, required four hours of cultural diversity training in the academy and one hour annually of continuing education.⁷⁴ (Recognizing the insufficiency of these requirements, the POST Commission has since raised their requirements to two hours of training annually in “fair and impartial policing practices, including implicit bias recognition.”⁷⁵) Police officers that provided testimony believed in the importance of anti-bias training but discussed concerns around officer engagement and the lack of standardization across departments.

On concerns of officer engagement, Paul Williams, who is the Chief of the Springfield Police Department, a member of the Executive Committee of the International Association of Chiefs of Police (IACP), and serves on the POST Commission, explained that the Missouri Police Chiefs’ Command College opens their annual implicit bias training to any officer in the state for free, but only 40 officers have taken advantage of it in the last four years.⁷⁶ He continued, “So sometimes even the free part doesn’t get it. It’s transportation or a combination—or it’s not fun. You know, I’m sure if we put a tactical training on and offered it free, they’d be beating our doors down.”⁷⁷ Jon Belmar, Chief of the St. Louis County Police Department, expressed a similar sentiment around the difficulty of engaging officers in continuing training:

⁷³ Fails Testimony, *Kansas City Transcript*, p. 146 lines 15 through 19.

⁷⁴ Williams Testimony, *Kansas City Transcript*, p. 189 lines 06-08:

⁷⁵ *Missouri POST Commission Approves New Rules to Strengthen Law Enforcement Officer Training Standards*, December 01, 2015. Available at: <http://dps.mo.gov/news/newsitem/uuid/3e782423-b259-4af5-9791-148c8e06b4bd>. (last accessed June 15, 2015)

⁷⁶ Williams Testimony, *Kansas City Transcript*, p. 188 lines 18 through 22.

⁷⁷ Williams Testimony, *Kansas City Transcript*, p. 188 line 23 through p. 189 line 08.

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We have to make sure every once in a while they get training, and we make sure we're looking at, you know, having a guy come in that will really talk about it in a different way and really excite these guys, get them talking. Every once in a while you need to make sure you keep this fresh also because otherwise, the officers just fall into that pattern of thinking I don't care if it's first aid or whatever you're talking about. This is 40 minutes, an hour I'll never get back.⁷⁸

The testimonies of these police chiefs suggest that many officers tend not to value these types of training compared to their other work. As the role of police officers expands in an era of financial austerity, this could have serious implications for their interactions with the communities they serve. Sam Dotson, Chief of the St. Louis Metropolitan Police Department, testified:

I'm talking about law enforcement has become [the] face of government. Cutbacks in mental health practices, cutbacks in medical programs, cutbacks in education, law enforcement, our first responders, police and fire and ambulance. They're the only ones that answer the phone 24 hours a day, seven days a week. We've become the face of many of the problems that are challenging society.⁷⁹

Considering this increased interaction with community members, especially in ways that go beyond the typical expectations and tactical training of police officers, it is increasingly important for police to be culturally competent in their communities. For example, in the Mapping Police Violence project referenced earlier in this report, several of the unarmed victims killed by police were believed to suffer from mental illness. With biases left unchecked, police may unwittingly resort to stereotypes to inform their understanding of a situation, leading them to perceive a black man acting erratically as a threat, rather than a citizen in need of help. Because officers can experience heightened arousal and a narrowing of focus when they perceive a situation to be dangerous,⁸⁰ they need to be well trained to override biases and recognize other situational factors. Otherwise, the results can be fatal.

The ambivalence of officers to participate in anti-bias training appears in their interactions with community members. Testimony from several community leaders suggests that police do not have a good understanding of the communities they work in,⁸¹ straining relationships between these groups. Mr. Johnson-Malone offered his perspective:

People don't feel that the police understand the neighborhoods they're patrolling, and so the interactions...often start off on the wrong leg because there's an exchange of words or what have you, and there's a misunderstanding about the culture that is...being seen and that is being interacted with. So police often turn to what they know, and often times that can lead to force pretty quickly.⁸²

This testimony suggests that there is a perception in the St. Louis area that police are not equipped to be working with the communities they serve, and this lack of training leads to more

⁷⁸ Belmar Testimony, *St. Louis Transcript*, p. 193 lines 02 through 11.

⁷⁹ Dotson Testimony, *St. Louis Transcript*, p. 155 lines 04 through 11.

⁸⁰ Claiborn Testimony, *Kansas City Transcript*, p. 32 lines 06 through 15.

⁸¹ Clark Testimony, *St. Louis Transcript*, p. 92 lines 17 through 25.

⁸² Johnson-Malone Testimony, *St. Louis Transcript*, p. 79 lines 01 through 09.

dangerous interactions with community members. Recognizing that police are being called upon beyond the scope of their work, Montague Simmons, Executive Director of the Organization for Black Struggle, reported that his organization has held conversations with community members about which kinds of situations justify police intervention and which situations are better handled using skills and resources that exist within the community.⁸³ He continued, “I think as communities begin to...become more and more self-sufficient on that front, then that begins to change the narrative on how we're relating to police forces.”⁸⁴ Communities and police departments can both make efforts to adjust to the changing role of police in communities. The evidence presented here suggests that increasing training on implicit biases is at least one step police departments could take.

d. Municipal Fragmentation in the St. Louis Area

Ninety municipalities⁸⁵ and 60 police departments provide services to approximately 1.3 million residents throughout St. Louis City and County.⁸⁶ The Committee heard testimony that this abundance of fragmented municipalities has segregated the St. Louis area by race and class, which in turn has contributed to inconsistent policing practices throughout the city and county. Before considering how this fragmentation contributes to racial disparities in policing, it is important to understand the economic and social conditions that led to this fragmentation.

Ms. Pamela Meanes testified that this fragmentation goes back to the 1960s, when clusters of people formed themselves into municipalities to improve services, capture tax revenue from local business, avoid paying taxes in support of poor neighborhoods, and exclude black people.⁸⁷ In *The Making of Ferguson*, Dr. Richard Rothstein suggests that current practices have dropped the explicit racial animus of the past, yet continue to have racially and economically exclusionary effects. He cites the 1995 incorporation of two primarily white suburban areas in St. Louis County, Wildwood and Green Park, in order to adopt zoning ordinances that would block the construction of multifamily units accessible to Section 8 voucher holders.⁸⁸ Ms. Meanes testified that once a municipality is formed, it is incredibly hard to merge,⁸⁹ meaning that the residential racial and economic segregation created by these municipalities persists to the current day. Federal public housing and urban renewal policies that affected low-income, primarily black

⁸³ Simmons Testimony, *Kansas City Transcript*, p. 141 lines 24 through 25.

⁸⁴ Simmons Testimony, *Kansas City Transcript*, p. 142 lines 01 through 04.

⁸⁵ Johnson-Malone Testimony, *St. Louis Transcript*, p. 74 lines 18 through 22. For a list of municipalities in St. Louis County, see: St. Louis County, *Municipalities*, available at:

<http://www.stlouisco.com/YourGovernment/Municipalities> (last accessed June 15, 2016)

⁸⁶ Better Together, *Public Safety—Police Report #1: Regional Overview*. Available at: <http://www.bettertogetherstl.com/wp-content/uploads/2015/04/BT-Police-Report-1-Exec-Summary-FINAL.pdf> (last accessed June 15, 2016)

⁸⁷ Meanes Testimony, *St. Louis Transcript*, p. 72 lines 06 through 17.

⁸⁸ *The Making of Ferguson*, p. 20-22.

⁸⁹ Meanes Testimony, *St. Louis Transcript*, p. 73 lines 20 through 22.

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residents⁹⁰ combined with these municipal practices to contribute to St. Louis' current status as a "depopulated, deindustrialized, and deeply segregated [example] of urban decay."⁹¹

The racial and economic segregation created by municipal fragmentation contributes to how certain communities are characterized and policed. When poor, black St. Louisans are geographically isolated in certain parts of the city and county, their experiences are hidden from many of the county's other residents. Other county residents' (including police officers') understanding of these communities may be informed by stereotypical assumptions around race and class. Communities feel this disconnect. Ms. Charli Cooksey testified to this feeling: "[W]hen people do not look like us, when they do not live with us, when they do not go to school with us and experience oppression with us, how do we expect them to be able to protect us?"⁹² Not only have these exclusionary practices created economically depressed areas with greater social needs, they have created geographic and social distance between these communities and the police who work in them. When police decisions are informed by biases rather than understanding, the kinds of tragedies enumerated throughout this report and in Appendix A can result.

In addition to the challenges this fragmentation poses to culturally competent policing, municipal fragmentation also leaves many communities without the commercial industry necessary to generate sufficient revenue for municipal services. In some municipalities, this has led to the overreliance on court fines and fees to generate revenue.⁹³ Mr. Johnson-Malone testified that his organization, Better Together, researched this practice and found that the burden of these fines and fees falls primarily on black communities. Of the 21 municipalities in St. Louis County that receive over 20 percent of their general revenue from the courts, 20 are predominantly black.⁹⁴ Given that police departments are one of the municipal services threatened by insufficient revenue, there is a perverse incentive for police departments to encourage the issuing of excessive citations. Paired with the Missouri Attorney General's data that shows the prevalence of racial profiling during traffic stops, evidence suggests that police in these municipalities are generating municipal revenue primarily from black drivers, leading to what Mr. Johnson-Malone characterized as a "culture of harassment."⁹⁵

For example, the Department of Justice's investigation of Ferguson found that city officials made revenue generation a priority for the court. The Ferguson Police Department was directed to aggressively issue citations, regardless of public safety need.⁹⁶ In 2013, the city generated \$2.46 million from court fines and fees, exceeding its target of \$2.11 million.⁹⁷ There is evidence to

⁹⁰ *The Making of Ferguson*, p. 20-22.

⁹¹ Meanes Testimony, *St. Louis Testimony*, p. 74 lines 04 through 07.

⁹² Cooksey Testimony, *St. Louis Transcript*, p. 103 lines 12 through 15.

⁹³ Jones Testimony, *St. Louis Transcript*, p. 230 lines 18 through 25.

⁹⁴ Johnson-Malone Testimony, *St. Louis Transcript*, p. 80 line 23 through p. 81 line 10.

⁹⁵ Johnson-Malone Testimony, *St. Louis Transcript*, p. 81 lines 13 through 24.

⁹⁶ *DOJ Ferguson Report*, 2015, p. 10.

⁹⁷ *DOJ Ferguson Report*, 2015, p. 09.

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suggest the department targeted black residents in its pursuit of this directive. The DOJ's investigation found that black drivers in Ferguson accounted for 85 percent of traffic stops despite being 67 percent of Ferguson's population; furthermore, of all black drivers stopped, 91 percent received citations compared to 87 percent of all white drivers. That equates to a black driver being two times more likely to receive a citation than a white driver.⁹⁸ Black people were also more likely to receive multiple citations at once.⁹⁹ Although Ferguson received the most attention, testimony suggests that the \$45 million in municipal court fines and fees collected in 2012 throughout all of St. Louis County¹⁰⁰ came primarily from the pockets of black citizens. While this may not be the sole cause of mistrust between police and communities of color in the St. Louis area, it can certainly be considered a contributing factor. In response to the attention this issue received during the investigation of the Ferguson Police Department following Mr. Brown's death, the Missouri State Legislature passed Senate Bill 5 in May 2015, which caps the amount of general operating revenue from traffic fines at 20 percent across the state and 12.5 percent for all municipalities in St. Louis County.¹⁰¹

Community members are not the only ones who expressed frustration with the disjointed municipal structure. St. Louis County Police Chief Jon Belmar testified that the "parts don't equal the sum" for policing in the St. Louis area. He stated, "What I'm saying is that the largest populated county in the state of Missouri, a million people for St. Louis County, to be as broken and fractionalized as we are is a challenge in and among itself."¹⁰² This fragmentation strains the relationships between community members and the police. Chief Dotson explained that it is extremely difficult to have consistency in policing when so many small, under-resourced agencies are operating within the same region. From a community perspective, the misdeeds of one small department can be generalized to the behavior of all law enforcement in the area. If law enforcement is going to be the driving factor for rebuilding trust, he testified, the St. Louis area must think seriously about consolidation.¹⁰³

e. Police Accountability

The relationship between police accountability and community trust was addressed by panelists across hearings, from police chiefs to community activists. Panelists pointed to a variety of situations where police accountability is less than satisfactory, but expressed a common theme: when police are not accountable to the communities they serve, their relationship with the community suffers. Testimony suggested that accountability may be particularly lacking in

⁹⁸ *DOJ Ferguson Report, 2015*, p. 64-65.

⁹⁹ *DOJ Ferguson Report, 2015*, p. 66.

¹⁰⁰ Jones Testimony, *St. Louis Transcript*, p. 223 lines 10 through 11.

¹⁰¹ Missouri SB 5 § 479.359

¹⁰² Belmar Testimony, *St. Louis Transcript*, p. 162 lines 06 through 07 and 16 through 20.

¹⁰³ Dotson Testimony, *St. Louis Transcript*, p. 161 lines 11 through 23.

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communities of color, which results from a combination of disproportionate contact and weak accountability measures.

i. Police department culture and the “Code of Silence”

Testimony suggested that accountability to the community is undermined by the cultures that develop within police departments, commonly a culture in which protection of fellow officers is valued over protection of the community. Police officers can find themselves in dangerous situations on the job, and they rely on other officers to have their backs. If they do not maintain good relationships within their department, they could find themselves in legitimate danger on the job. Their survival becomes tied to their ability to assimilate to their department’s culture. Dr. Robinson described this dynamic as an exchange of individual identity for protection and survival. In return for their loyalty, officers are rewarded with the protection of the pack; they feel invincible.¹⁰⁴ This can lead to a “pack mentality” that pits officers against the communities they serve, particularly in communities they perceive as dangerous.

The effect this has on a community has a lot to do with the type of officers who lead the department. In his testimony, Mr. Montague Simmons contrasted two types of police officers: the “Boy Scouts” and the “Bullies.” The “Boy Scouts” are those who became police officers to help people. The “Bullies” are the ones who came for power. The reality, Mr. Simmons explained, is that the “Bullies” tend to be promoted in this culture, and the “Boy Scouts” tend to be isolated for speaking out against practices they disagree with.¹⁰⁵ Police have good reason not to speak up when they believe their life may depend on staying in the good graces of their coworkers,¹⁰⁶ who he suggests are often following the leadership of a “Bully.”

When the culture infusing a department includes racialized interpretations of criminality, this dynamic can particularly harm communities of color. For example, Mr. Pruitt shared an example from February 2013 about a St. Louis County Police Department Lieutenant who instructed his officers to clean up a mall in South County that was experiencing thefts. According to an anonymous informant, the Lieutenant explicitly told his officers to target black people in the area and run their plates for outstanding warrants.¹⁰⁷ Although the Chief concluded that no officer acted upon those orders, the NAACP found that one officer alone had stopped and arrested 120 African Americans in this area within a 30-day period.¹⁰⁸

¹⁰⁴ Robinson Testimony, *St. Louis Transcript*, p. 40 line 18 through p. 41 line 12.

¹⁰⁵ Simmons Testimony, *St. Louis Transcript*, p. 139 line 22 through p. 140 line 09.

¹⁰⁶ Blackmon Testimony, *St. Louis Transcript*, p. 133 line 04 through 19.

¹⁰⁷ Pruitt Testimony, *St. Louis Transcript*, p. 56 line 20 through p. 57 line 07. See also: St. Louis Post Dispatch, *St. Louis County Police Lieutenant Put on Leave Following Claims of Racial Profiling*, February 07, 2013. Available at: http://www.stltoday.com/news/local/crime-and-courts/st-louis-county-police-lieutenant-put-on-leave-following-claims/article_6961526c-4540-5e0f-8d95-08d173df921c.html. (last accessed June 15, 2016)

¹⁰⁸ Pruitt Testimony, *St. Louis Transcript*, p. 57 lines 07 through 17.

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The culture of the Ferguson Police Department offers another example. The Department of Justice's investigation uncovered instances of racial animus endorsed by patrol supervisors. The DOJ therefore concluded that these supervisors were unlikely to hold an officer accountable for discriminatory conduct or to discourage the expression of racial bias in their work.¹⁰⁹ Racial biases, in fact, permeated the department, with officers excusing the disproportionate impact of their actions on black people as a result of black community members' lack of "personal responsibility."¹¹⁰ This example suggests that the mistrust held by the Ferguson community for its police department developed at least in part from the culture of racial bias nurtured by the department's leadership. Mr. Johnson-Malone suggested in his testimony that the protests following the killing of Michael Brown were not about a single incident; rather, they reflected the perception of a "culture of harassment" experienced by the black community in the St. Louis area.¹¹¹

This dynamic between police departments and communities, particularly communities of color, creates an "us versus them" mentality. Both groups feel the need to protect themselves from the other. Mr. Pruitt suggested in his testimony that these relationships will not improve until the "code of silence" within police departments is addressed.¹¹² Although he acknowledges the silence on both sides, Mr. Pruitt's emphasis on the police suggests that the imbalance of power necessitates that the police take the first step.

ii. Departmental accreditation and regional standardization

Although police officers must go through the academy to receive certification, no similar requirements are made of police departments as a whole. The Commission on Accreditation for Law Enforcement Agencies (CALEA) offers a voluntary accreditation process for departments nationwide, which certifies the department's compliance to law enforcement standards outlined by CALEA.¹¹³ Few departments, however, elect to participate in this process. Paul Williams, IACP representative and Springfield Police Chief, testified that only 5 percent of agencies nationwide invite CALEA to accredit them. His department has been accredited for 21 years.¹¹⁴ St. Louis County Police Chief Jon Belmar also testified that his department is CALEA accredited in addition to partnering with UCLA's Center for Policing Equity.¹¹⁵ The Missouri Highway Patrol is accredited as well and has partnered with several outside groups to research and improve its practices.¹¹⁶

¹⁰⁹ DOJ Ferguson Report, 2015, p. 73.

¹¹⁰ DOJ Ferguson Report, 2015, p. 74.

¹¹¹ Johnson-Malone Testimony, *St. Louis Transcript*, p. 81 lines 18 through 24.

¹¹² Pruitt Testimony, *St. Louis Transcript*, p. 65 line 12 through p. 66 line 06.

¹¹³ For an overview of the topics covered by CALEA standards, see: <http://www.calea.org/content/standards-titles> (last accessed June 15, 2016)

¹¹⁴ Williams Testimony, *Kansas City Transcript*, p. 217 lines 08 through 22.

¹¹⁵ Belmar Testimony, *St. Louis Transcript*, p. 171 line 24 through p. 172 line 12.

¹¹⁶ Scism Testimony, *St. Louis Transcript*, p. 183 lines 14 through 24.

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Accreditation, however, is costly. The initial fees for CALEA accreditation range from \$8,475 to \$19,950, depending on department size, with annual fees ranging from \$3,470 to \$5,765.¹¹⁷ For small municipal departments, producing this amount of money outside of their standard operating costs may not be feasible. As suggested in Section D, the departments in the St. Louis area that struggle most with obtaining necessary financial resources (and therefore turn to municipal fines and fees) are more likely to be in predominantly black communities. Thus, inequality of police training and oversight between communities is largely determined not by departmental need, but by a community's financial status, and this inequality has disparate effects on some communities of color.

In response to questions about aligning practices across departments in the region, Chief Belmar stated that the departments willing to align are not the ones in need of reform.¹¹⁸ Mr. Johnson-Malone echoed this sentiment, when he noted that often the police departments who are typically described as “dangerous” are not the ones who are seeking to better themselves.¹¹⁹ Although the testimony presented here represents the opinions of only a handful of larger agencies within the state, they were the only departments who agreed to be present at these hearings. The Chiefs of the Beverly Police Department and the Ferguson Police Department withdrew as panelists. The Kansas City, Grandview, and Raytown departments declined to participate, although Deputy Chief Randy Hundley of the Kansas City Police Department did attend as a member of the audience and offered comment during the open forum.¹²⁰ Regardless of why departments choose not to seek accreditation or align practices with others in their region, the inconsistency in enforcement practices undermines community trust everywhere, especially in areas where individuals routinely interact with multiple departments. When the departmental policies around training, use of force, response to complaints, etc. vary considerably from department to department, community members do not know what to expect from any given officer with whom they interact.

iii. Complaint processes and response to officer misconduct

Processes for identifying and responding to officer misconduct best support community trust and officer accountability when they are transparent, accessible to the public, independent, and enforceable. Panelist Justin Hansford offered Ontario, Canada as a positive example. In Ontario, citizens have the right to a face-to-face hearing with a police officer who used force against them and can demand justification from the officer.¹²¹ Additionally, the Ontario Human Rights Commission publicly issues a report that catalogues the complaints made against a

¹¹⁷ Commission on Accreditation for Law Enforcement Agencies, *Law Enforcement Accreditation: The Cost*. Available at: <http://www.calea.org/content/law-enforcement-accreditation-cost> (last accessed June 15, 2016).

¹¹⁸ Belmar Testimony, *St. Louis Transcript*, p. 200 lines 02 through 03.

¹¹⁹ Johnson-Malone Testimony, *St. Louis Transcript*, p. 87 lines 14 through 21.

¹²⁰ Hundley Testimony, *Kansas City Transcript*, p. 288-296.

¹²¹ Hansford Testimony, *St. Louis Transcript*, p. 31 lines 12 through 15.

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department.¹²² In the United States, on the other hand, complaints typically go through an internal review process, which is often not made public in order to protect the officer's privacy. Often, these conditions are built into the collective bargaining agreements of policing organizations.¹²³ This method of handling instances of police misconduct obscures the process from the community's view and bars its participation in it, which often does not facilitate a sense of justice, accountability, or transparency for community members. When people of color have disproportionate contact with law enforcement and experience disproportionate use of force, as suggested throughout this report, this can create a sense of unequal protection under law on the basis of race or color.

Most departments in Missouri rely more heavily on internally-generated metrics than on civilian complaints for identifying instances of excessive force or other officer misconduct. Chief Belmar from the St. Louis County Police testified that his department uses an internal warning system to track uses of force and investigate whether force was warranted. He stated, "We do a much better job of bringing allegations against police officers than the public does."¹²⁴ Their data collection identified 595 instances out of 28,000 custodial arrests where officers used force in 2011.¹²⁵ Similarly, Chief Dotson testified that in 2013, his department generated 200 complaints internally and received 100 externally. In 2014, 200 complaints were generated internally while only 57 were generated externally.¹²⁶ In addition to using an early warning system, Captain Rex Scism stated that the Missouri State Highway Patrol is required to review use of force data annually. He indicated that the Missouri State Highway Patrol's data on use of force by racial demographics mirrored the demographics of the state.¹²⁷ Springfield Police Chief Paul Williams requires his officers to file a use-of-force report for every instance ranging from use of physical restraint to shooting someone, and he personally oversees the internal review process.¹²⁸ Some level of internal monitoring or review appeared to be common among police departments, at least the ones represented at these hearings.

While no law enforcement officer present at these hearings indicated that they did not value receiving input from the community through externally generated complaints, no department seems to prioritize them as much as the Kansas City Police Department. Merrell Bennekin, representing the Kansas City Board of Police Commissioners' Office of Community Complaints (OCC), described his agency's mission as such:

The OCC is a neutral entity reporting only to the police board...charged with the responsibility of protecting community members from the possibility of abuse or misconduct on the part of the

¹²² Hansford Testimony, *St. Louis Transcript*, p. 54 lines 11 through 13.

¹²³ Hansford Testimony, *St. Louis Transcript*, p. 54 lines 13 through 18.

¹²⁴ Belmar Testimony, *St. Louis Transcript*, p. 191 lines 02 through 04.

¹²⁵ Belmar Testimony, *St. Louis Transcript*, p. 171 lines 09 through 14.

¹²⁶ Dotson Testimony, *St. Louis Transcript*, p. 171 lines 03 through 07.

¹²⁷ Scism Testimony, *St. Louis Transcript*, p. 181 lines 15 through 21.

¹²⁸ Williams Testimony, *Kansas City Transcript*, p. 218 lines 17 through 23.

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Kansas City, Missouri Police Department. The OCC is also entrusted with protecting members of the police department from unjust and unfair accusations.¹²⁹

The OCC receives complaints about biased policing, discourtesy, excessive use of force, harassment, improper member conduct, and improper procedure. The OCC offers an investigation process or the option to facilitate dialogue between community members and police through a mediation process.¹³⁰

In order to make the complaint filing process more accessible, a small number of community organizations accept complaints in lieu of the OCC or a police station. Recognizing that people may feel uncomfortable filing complaints directly with the police department, these community organizations take complaints and deliver them to the OCC.¹³¹ Mr. Damon Daniel, Director of the Ad Hoc Group on Crime, one of the organizations in Kansas City that accepts complaints, testified that more of these groups are necessary due to the lack of trust between community members and police.¹³² Therefore, this effort to remove barriers to filing complaints is an admirable step towards making complaint processes more accessible.

Despite its best efforts, however, aspects of the OCC process fall short of the transparency and accountability necessary to repair the deep mistrust of law enforcement that exists within communities of color. Two key areas that interfere with repairing trust were identified in the testimony of Ms. Latahra Smith: the discretion given to OCC staff in administering the procedures as well as conflicts of interest within the agency. For example, she testified that complaints must be made in person by the person affected within 90 days of the offending event. These constraints may exclude people who have been arrested and cannot make bail from filing complaints,¹³³ which could prevent the potentially more egregious cases of police misconduct from being acknowledged. Mr. Bennekin responded that incarceration does not preclude someone from filing a complaint, as he spends many days with Internal Affairs taking statements from people in jail.¹³⁴ Additionally, he testified that the director has discretion over whether or not to accept complaints after the 90-day limit, which he said happens more often than not.¹³⁵ As to the requirement that the complaint must come from the person affected, Mr. Bennekin stated that complaints are accepted from third parties but cannot be investigated until they make contact with the person involved. This process was being reviewed at the time of the Committee's hearing.¹³⁶ While Mr. Bennekin's testimony indicates that the barriers Ms. Smith pointed to are not absolute, they do appear to rely heavily on OCC discretion. This discretion opens

¹²⁹ Bennekin Testimony, *Kansas City Transcript*, p. 159 lines 01 through 10.

¹³⁰ Bennekin Testimony, *Kansas City Transcript*, p. 160 line 07 through p. 161 lines 02.

¹³¹ Brooks Testimony, *Kansas City Transcript*, p. 18 line 23 through p. 19 line 01 and p. 19 lines 20 through 25.

¹³² Daniel Testimony, *Kansas City Transcript*, p. 135 line 23 through p. 136 line 06.

¹³³ Smith Testimony, *Kansas City Transcript*, p. 86 line 17 through p. 87 line 03.

¹³⁴ Bennekin Testimony, *Kansas City Transcript*, p. 192 lines 01 through 08.

¹³⁵ Bennekin Testimony, *Kansas City Transcript*, p. 192 lines 20 through 24.

¹³⁶ Bennekin Testimony, *Kansas City Transcript*, p. 193 lines 10 through 19.

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opportunities for inconsistencies in implementation, decisions that could potentially be driven by implicit racial biases, as discussed earlier in this report.

Ms. Smith also suggested that conflicts of interest may lead to complaints never being acknowledged or properly addressed. For example, Mr. Alvin Brooks, founder of the Ad Hoc Group on Crime, is also the President of the Board of Police Commissioners, which Ms. Smith suggested led the agency to decline accepting her complaint.¹³⁷ Beyond Mr. Brooks' involvement, the conflicts of interest may also include the use of the Kansas City Police Department's Internal Affairs Unit for investigating all OCC complaints. Although Mr. Bennekin assured the Committee that these investigations remain under the purview of the OCC at all times,¹³⁸ this process presents an opportunity for conflicts of interest that would not exist if the investigation was done by an independent agency.

Finally, the OCC's dual mission to protect both members of the community and members of the police department places it in a difficult position. Testimony from the public communicated a mistrust of the OCC's ability to balance these goals. Ms. Cyndy Short, an attorney in Kansas City, testified that she has never had a response from the Office of Community Complaints in any of the cases where she has advised her clients to file,¹³⁹ and Mr. William Whitcomb, head of the Kansas City NAACP's Legal Redress Committee, testified that the NAACP has several cases where individuals could not get grievances addressed through formal complaint procedures.¹⁴⁰ These experiences contribute to the perception that police are not being held accountable for complaints filed,¹⁴¹ but they could potentially be avoided through the use of an independent investigatory agency.

When complaints were addressed, regardless of whether they were generated internally or externally, the public's testimony gave the sense that justice had not always been delivered. Ms. Narene Stokes-James testified before the Committee about the death of her son, a 24-year-old black man, at the hands of Kansas City Police Department Officer William Thompson in 2013.¹⁴² Officer Thompson asserted that Ryan Stokes was holding a gun, although no gun was ever found on his body.¹⁴³ A year later, Officer Thompson and his partner were honored by the Board of Police Commissioners for their role in Ryan's death,¹⁴⁴ intensifying the feeling of

¹³⁷ Smith Testimony, *Kansas City Transcript*, p. 87 lines 04 through 15.

¹³⁸ Bennekin Testimony, *Kansas City Transcript*, p. 160 lines 07 through 20.

¹³⁹ Short Testimony, *Kansas City Transcript*, p. 85 lines 09 through 16.

¹⁴⁰ Whitcomb Testimony, *Kansas City Transcript*, p. 226 lines 11 through 18.

¹⁴¹ Smith Testimony, *Kansas City Transcript*, p. 87 lines 19 through 25.

¹⁴² Stokes-James Testimony, *Kansas City Transcript*, p. 73 line 20 through p. 80 line 11. See Appendix B for a more detailed account of Mr. Stokes' death.

¹⁴³ Flatland KC, *Official Reports About The Shooting Of Ryan Stokes Raise More Questions Than Answers. Here's Why*, July 30, 2015. Available at: <http://www.flatlandkc.org/news-issues/official-police-story-shooting-ryan-stokes-raises-doubts-why/> (last accessed June 15, 2016)

¹⁴⁴ Kansas City Police Department. Minutes of the Board of Police Commissioners Meeting August 26, 2014. Available at: <http://kcmo.gov/police/board-of-police-commissioners/board-minutes/august-26-2014-meeting/> (last accessed June 15, 2016)

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betrayal and injustice Ms. Stokes-James already felt.¹⁴⁵ Two years later, Ryan’s mother still does not have a sense of closure around her son’s death. These kinds of instances stay in community members’ hearts and minds for generations. Given their prevalence as shown in the Mapping Police violence project and Appendix A, communities do not even have the time to heal before they are grieving again.

Community members and law enforcement officers alike also raised concerns about the oversight of police certification following instances of officer misconduct. What often happens is what Ms. Tishaura Jones characterized as the “muni shuffle.” She explained, “It’s a two-step dance. First, the department lets an officer go without completing the formal investigation that might cause him or her [to lose] their police certificate. Then another department, eager to find an already-trained recruit at a bargain wage, hires the person without asking too many questions.”¹⁴⁶ Sheriff Mike Sharp clarified that oftentimes when a disciplinary action is taken, departments give officers the option of resignation, rather than termination, which does not communicate their culpability. Although departments are required to report it to the Missouri Peace Officer Standards and Training (POST) Commission, POST rarely takes action.¹⁴⁷ Chief Williams attributed this to the backlog in POST investigations. With only two investigators in the state, the POST Commission currently has a backlog of 200 disciplinary cases they have not yet investigated.¹⁴⁸ “As a chief,” he said, “to me that’s frightening.”¹⁴⁹ Chief Williams pointed out that these are officers who should potentially not be in law enforcement but who will continue to work for different police departments because the state does not have enough resources for proper oversight. Addressing this, he suggested, is how you get rid of the few “bad apple” police officers.¹⁵⁰ Without seeing proper justice for police officers who have abused their power or harmed their communities, community safety and trust is undermined.

iv. Grand juries and prosecuting unlawful use of deadly force

Under Missouri statutes governing self-defense for both civilians and police officers, the standard for criminal liability is high.¹⁵¹ In order for an officer to be charged with a crime following a deadly use of force incident, the prosecutor must believe that he or she has the ability to prove, “beyond a reasonable doubt,” that the officer’s actions rise to the level of *criminal* conduct.¹⁵² In addition to the use of force parameters outlined for civilians in Missouri Revised Statutes, Section 563.031, according to Missouri Revised Statute Section 563.046, as of January 2017 police are authorized to use deadly force to effect an arrest or prevent an escape from

¹⁴⁵ Stokes-James Testimony, *Kansas City Transcript*, p. 79 lines 13 through 20.

¹⁴⁶ Jones Testimony, *St. Louis Transcript*, p. 226 lines 09 through 20.

¹⁴⁷ Sharp Testimony, *Kansas City Transcript*, p. 202 lines 11 through 21.

¹⁴⁸ Williams Testimony, *Kansas City Transcript*, p. 204 lines 06 through 11.

¹⁴⁹ Williams Testimony, *Kansas City Transcript*, p. 204 line 12.

¹⁵⁰ Williams Testimony, *Kansas City Transcript*, p. 204 line 13 through p. 205 line 07.

¹⁵¹ Peters Baker Testimony, *Kansas City Transcript*, p. 39 lines 10 through 23. *See also* MO Rev Stat § 563.031

¹⁵² Peters Baker Testimony, *Kansas City Transcript*, p. 36 line 23 through p. 37 lines 06.

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custody if they believe it is immediately necessary and the person “has committed or attempted to commit a felony; or is attempting to escape by use of deadly force; or may otherwise endanger life or inflict serious physical injury unless arrested without delay.”¹⁵³ These standards, however, fall short of the Supreme Court’s 1985 ruling in *Tennessee v. Garner*, which concluded that a law enforcement officer can only use deadly force to prevent a suspect’s escape if “it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.”¹⁵⁴ At the time of this report, a bill to alter the statute to comply with *Garner* had been passed in the Missouri Senate and was currently under review in the Missouri House of Representatives.¹⁵⁵

Even the stricter guidelines outlined by the Supreme Court do not indicate criminal liability in many cases, such as in the death of Kajieme Powell, a black man in a mental health crisis who was killed by police officers as he advanced towards them with a knife.¹⁵⁶ Nationally, among thousands of people killed by police between 2005 and April 2015, police have been charged with a crime in only 54 cases, and of those 54, only 11 were convicted.¹⁵⁷ Given that young black men are 21 times more likely to be killed by a police officer than their white counterparts,¹⁵⁸ the lack of police convictions under current laws raises questions about the equal protection of black people under law in the United States.

Because prosecutors may be hesitant to press charges against police they work with closely, they often choose to instead have grand juries (which they advise on all legal matters) make that decision.¹⁵⁹ When criminal investigations of deadly force are conducted through grand juries, the lack of transparency obscures the resolution from impacted communities. As Jackson County Prosecutor Jean Peters Baker testified, these grand jury investigations are the “antithesis to transparency,”¹⁶⁰ which often fuels mistrust of the justice system within communities impacted

¹⁵³ MO REV. STAT. §563.046 (effective January 2017) Available at: <http://www.moga.mo.gov/mostatutes/stathtml/56300000461.html> (last accessed June 15, 2016)

¹⁵⁴ *Tennessee v. Garner*, 471 U.S. 1 (1985)

¹⁵⁵ KRCU, ‘Use of Force’ Overhaul Faces Uncertain Fate in Missouri House, April 26, 2016. Available at: <http://krcu.org/post/use-force-overhaul-faces-uncertain-fate-missouri-house#stream/0> (last accessed June 10, 2016). See also http://www.senate.mo.gov/16info/BTS_Web/Bill.aspx?SessionType=R&BillID=22246618 (last accessed June 10, 2016).

¹⁵⁶ Fox 2 News St. Louis, *Officers Who Shot, Killed Kajieme Powell Will Not Be Charged*, November 03, 2015. Available at: <http://fox2now.com/2015/11/03/officers-who-shot-killed-kajieme-powell-will-not-be-charged/> (last accessed June 15, 2016)

¹⁵⁷ Washington Post, *Thousands Dead, Few Prosecuted*, April 11, 2015. Available at: <http://www.washingtonpost.com/sf/investigative/2015/04/11/thousands-dead-few-prosecuted/> (last accessed June 15, 2016)

¹⁵⁸ ProPublica, *Deadly Force, in Black and White*, October 10, 2014. Available at: <https://www.propublica.org/article/deadly-force-in-black-and-white> (last accessed June 15, 2016)

¹⁵⁹ Al Jazeera America, *Alternatives to Grand Juries Can Provide Distance Between DAs, Police*, December 08, 2014. Available at: <http://america.aljazeera.com/articles/2014/12/8/experts-call-grandjuryprosecutorstoolsuggestalternatives.html> (last accessed June 15, 2016) [Hereafter cited as *Alternatives to Grand Juries*]

¹⁶⁰ Peters Baker Testimony, *Kansas City Transcript*, p. 38 lines 24 through 25.

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by an officer-involved shooting death. The community's response to the grand jury decision not to indict Officer Darren Wilson for Michael Brown's death offers an example of such mistrust.¹⁶¹ In that case, prosecuting attorney Robert McCulloch offered an unusual release of the grand jury evidence against Officer Wilson.¹⁶² Typically, Ms. Peters Baker testified, if a grand jury investigation falls short of criminal charges, Missouri law prohibits any information being given to the public at large.¹⁶³ The reason for this law, she stated, is to protect the privacy of victims and suspects.¹⁶⁴

Attorney Cyndy Short testified that grand jurors for cases of deadly use of force by an officer receive a day-long training on officer-involved shootings from an officer's point of view. Ms. Short claimed that these trainings bias the jurors not to indict.¹⁶⁵ "That program has been 100 percent successful," she stated, "as there have been no officers in Kansas City indicted for a shooting."¹⁶⁶ In an interview with Al Jazeera America, Stephen A. Salzborg, Professor of Law at George Washington University, stated that prosecutors use grand juries as political cover: "They can basically hide behind the grand jury, saying, 'The grand jury didn't want to indict the police officer.'"¹⁶⁷ Absent indictments and access to the evidence presented, a sense of justice following these investigations likely is not felt in the community, especially when most civilians have little understanding of the legal standards guiding grand juries.

Recognizing the lack of transparency that grand juries offer communities, Ms. Peters Baker explained that prosecutors have other choices in addition to using a grand jury and noted her efforts to work with other prosecutors to develop best practices in investigating police use of force cases.¹⁶⁸ She spoke particularly on the possibility of defining the role of a prosecutor when cases fall short of a criminal standard, including pursuing sanctions beyond criminal charges or investigating police policies for systemic issues.¹⁶⁹ Ms. Peters Baker raises in her testimony a concern moving forward that the Committee shares in light of evidence presented: "the role of the prosecutor should be scrutinized"¹⁷⁰ when considering the relationship between police officers and communities of color.

¹⁶¹ NBC News. *Ferguson Protesters React to Michael Brown Grand Jury Decision*. Available at: <http://www.nbcnews.com/storyline/michael-brown-shooting/ferguson-protesters-react-michael-brown-grand-jury-decision-n255481> (last accessed June 15, 2016)

¹⁶² St. Louis Post Dispatch. *St. Louis County Prosecutor Will Release Records if No Indictment*. Available at: http://www.stltoday.com/news/local/crime-and-courts/st-louis-county-prosecutor-will-release-records-if-no-indictment/article_2772769b-61c1-5082-8682-45655477b030.html (last accessed June 15, 2016)

¹⁶³ Peters Baker Testimony, *Kansas City Transcript*, p. 38 lines 05 through 23.

¹⁶⁴ Peters Baker Testimony, *Kansas City Transcript*, p. 37 lines 13 through 17.

¹⁶⁵ Short Testimony, *Kansas City Transcript*, p. 83 line 24 through p. 84 line 03.

¹⁶⁶ Short Testimony, *Kansas City Transcript*, p. 84 lines 04 through 06.

¹⁶⁷ *Alternatives to Grand Juries*

¹⁶⁸ Peters Baker Testimony, *Kansas City Transcript*, p. 38 lines 05 through 13 and p. 40 lines 10 through 16.

¹⁶⁹ Peters Baker Testimony, *Kansas City Transcript*, p. 40 lines 02 through 23.

¹⁷⁰ Peters Baker Testimony, *Kansas City Transcript*, p. 42 lines 17 through 20.

f. Policing Strategies

Trends in policing orientations throughout history reflect changing social and cultural conditions. Different orientations to policing utilize different strategies and measurements for effectiveness. Testimony provided to the Committee highlighted several strategies applicable to this inquiry: community policing, intelligence-led or “hot spot” policing, recruitment of a diverse police force, and a discussion on how to police a protest.

i. Community policing

Community policing “promotes strategies that systematically use partnerships in order to proactively address problems of immediate concern to citizens, including crime, fear, and disorder.”¹⁷¹ It means that “police officers get out of their cars and greet people.”¹⁷² True community-oriented policing involves more than community programs; it requires a philosophy of community-oriented policing that suffuses the agency from the top down.¹⁷³ As Rev. Blackmon testified, “Walking around the neighborhood outside of your car does not a community make.”¹⁷⁴ Chief Paul Williams expressed the importance of ongoing community engagement, stating, “You cannot build relationships in crisis;”¹⁷⁵ rather, community-oriented strategies must be incorporated consistently so that when crises arise, the relationships already exist to facilitate their resolution. As Ms. Gloria Ortiz Fisher said, “[T]hose kinds of relationships in the community make a huge difference.”¹⁷⁶

When done consistently and guided by a spirit of community participation, community policing can help create environments in which “law enforcement and the community [work] together to create safe, healthy, and vital communities.”¹⁷⁷ However, the Committee heard some testimony that certain community-oriented strategies may be read as insincere or interpreted as surveillance of a community,¹⁷⁸ particularly in communities of color and among residents with undocumented immigration status. Because people from these communities already experience disproportionate contact with police, an officer approaching them “just to talk” may be greeted with suspicion. For example, Mr. Pruitt suggested that in some cases Community Oriented Policing Services (COPS) strategies may actually increase the encounters black citizens have with law enforcement and “legitimize stop and frisk.”¹⁷⁹ Because “stop and frisk” is not typically characteristic of pure community policing philosophy, such testimony could suggest either that police departments are incorrectly implementing community-oriented practices or that community members are unclear

¹⁷¹ Novak Testimony, *Kansas City Transcript*, p. 25 lines 16 through 19.

¹⁷² Brooks Testimony, *Kansas City Transcript*, p. p. 15 lines 13 through 14.

¹⁷³ Williams Testimony, *Kansas City Transcript*, p. 176 lines 11 through 18.

¹⁷⁴ Blackmon Testimony, *St. Louis Transcript*, p. 113 lines 09 through 10.

¹⁷⁵ Williams Testimony, *Kansas City Transcript*, p. 177 lines 09 through 13.

¹⁷⁶ Ortiz Fisher Testimony, *Kansas City Transcript*, p. 258 lines 13 through 14.

¹⁷⁷ Webb Testimony, *St. Louis Transcript*, p. 205 line 22 through 24.

¹⁷⁸ Pruitt Testimony, *St. Louis Transcript*, p. 89 line 14 through p. 90 line 14.

¹⁷⁹ Pruitt Testimony, *St. Louis Transcript*, p. 90 lines 02 through 03.

about the distinctions between policing styles. Some language used by law enforcement also seemed to confound the difference between targeting a high-crime area and engaging in positive interactions with community members. One law enforcement panelist, discussing how officers need to spend more time outside of their cars and interacting with the community, stated, “We need to take over sections that are inherently filled with crime and just walk the streets and *take those blocks back again* [emphasis added].”¹⁸⁰ While this testimony intended to advocate for police to interact more with community members, some people may not perceive the language around “taking back” the streets as communicating the collaborative approach that community-oriented policing prescribes. A lack of clear distinction between community policing and more traditional approaches may in some cases undermine the cooperative nature of community-oriented policing.

ii. Intelligence-led policing

Intelligence-led policing focuses on using data to identify crime “hot spots.”¹⁸¹ When a “hot spot” is identified, police implement a variety of targeted strategies to reduce crime, including zero tolerance, stop and frisk, and other crackdowns.¹⁸² This method of policing grew in popularity following the attacks on September 11, 2001, when police departments became focused on identifying and responding to threats to public safety, shifting focus away from more community-oriented approaches.¹⁸³ By directing resources into a community, intelligence-led policing can support community improvements¹⁸⁴ and leave some residents feeling safer.¹⁸⁵ However, if instituted without the involvement and support of the community, it may also create distance between the police and the people they serve. Dr. Novak explained that emphasizing the law enforcement function of police and “relegat[ing] citizens to ancillary positions within public safety activities”¹⁸⁶ may exacerbate mistrust between officers and the communities they police. These strategies have also been criticized for contributing to high incarceration rates, especially among black and brown communities that are more heavily targeted;¹⁸⁷ lessening the focus on relationships and causing people to be treated more like numbers;¹⁸⁸ and threatening people’s civil liberties when these strategies are applied broadly.¹⁸⁹ As stated in the report by the

¹⁸⁰ Sharp Testimony, *Kansas City Transcript*, p. 168 line 12 through 15.

¹⁸¹ See U.S. Department of Justice, Bureau of Justice Assistance: *Intelligence-Led Policing: The New Intelligence Architecture* (2005). Available at: <https://www.ncjrs.gov/pdffiles1/bja/210681.pdf> (last accessed May 31, 2016)

¹⁸² National Institute of Justice, *Practice Profile: Hot Spots Policing*. Available at: <https://www.crimesolutions.gov/PracticeDetails.aspx?ID=8> (last accessed June 15, 2016)

¹⁸³ Scrivner Testimony, *St. Louis Transcript*, p. 215 line 21 through p.216 line 10; Isom Testimony, *St. Louis Transcript*, p. 237 lines 11 through 18.

¹⁸⁴ Dotson Testimony, *St. Louis Transcript*, p. 201 lines 15 through 25.

¹⁸⁵ Dotson Testimony, *St. Louis Transcript*, p. 156 line 24 through p. 157 line 06.

¹⁸⁶ Novak Testimony, *Kansas City Transcript*, p. 22 line 22 through p. 23 line 12.

¹⁸⁷ Novak Testimony, *Kansas City Transcript*, p. 23 line 13 through p. 24 line 19.

¹⁸⁸ Scrivner Testimony, *St. Louis Transcript*, p. 216 lines 16 through 23.

¹⁸⁹ Novak Testimony, *Kansas City Transcript*, p. 57 lines 02 through 14.

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President's Task Force on 21st Century Policing, "[c]rime reduction is not self-justifying."¹⁹⁰ It is important moving forward to determine whether relying on these practices demonstrates crime reduction as a means for increased public safety and vitality, or whether it demonstrates crime reduction for the sake of crime reduction.

iii. Diversity on the police force

Recruiting a more racially and ethnically diverse police force was endorsed by law enforcement and community leaders alike as a strategy for improving relationships between police officers and communities of color.¹⁹¹ Panelists believed that communities are best policed by officers that look like them.¹⁹² Chief Dotson from the St. Louis City Police emphasized how crucial he believes this is for informing hiring practices: "We cannot police our communities unless the officers that we employ are representative of the communities that we serve."¹⁹³ However, there was a sentiment among law enforcement that despite their best efforts, recruiting officers of color has been a challenge.¹⁹⁴ Mr. Brooks attributed this difficulty to the historical mistrust of police within communities of color.¹⁹⁵ Mr. Chavez suggested that racial inequity or biases on the police force may discourage Latinos from applying, stating, "I notice that [Latinos] just don't have [a] chance" of getting on the force.¹⁹⁶ Although research is mixed on the effects of diversity in the police force on racial profiling and the use of force against minoritized racial groups, a diverse police force does seem to increase trust between the community and the department and may have a positive impact on a department's receptiveness to change.¹⁹⁷

iv. Policing protests

While a discussion of law enforcement responses to protests does not suggest a particular strategy towards improving relationships between police departments and communities of color, the Committee felt it was important to include. Testimony from community members was critical of the police response following the killing of Michael Brown and noted in particular that the

¹⁹⁰ President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing*, p. 16. May 2015. Available at: http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf (last accessed June 15, 2016)

¹⁹¹ Daniel Testimony, *Kansas City Transcript*, p. 117 lines 07 through 11; Williams Testimony, *Kansas City Transcript*, p. 174 lines 04 through 14; Whitcomb Testimony, *Kansas City Transcript*, p. 227 lines 04 through 07; Dotson Testimony, *St. Louis Transcript*, p. 151 lines 13 through 25; Belmar Testimony, *St. Louis Transcript*, p. 165 line 18 through p. 166 line 01; Replogle Testimony, *St. Louis Transcript*, p. 177 lines 09 through 20.

¹⁹² Daniel Testimony, *Kansas City Transcript*, p. 117 lines 07 through 11; Belmar Testimony, *St. Louis Transcript*, p. 165 line 18 through p. 166 line 01

¹⁹³ Dotson Testimony, *St. Louis Transcript*, p. 151 lines 13 through 25.

¹⁹⁴ Williams Testimony, *Kansas City Transcript*, p. 174 lines 04 through 14;

¹⁹⁵ Brooks Testimony, *Kansas City Transcript*, p. 17 lines 05 through 16.

¹⁹⁶ Chavez Testimony, *St. Louis Transcript*, p. 98 lines 15 through 22.

¹⁹⁷ U.S. Department of Justice, Civil Rights Division and Office of Justice Programs, and the U.S. Equal Employment Opportunity Commission, *Diversity in Law Enforcement: A Literature Review*, p. 01. January 2015. Available at: http://www.cops.usdoj.gov/pdf/taskforce/Diversity_in_Law_Enforcement_Literature_Review.pdf (last accessed June 15, 2016)

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militaristic response of police to the protests further damaged trust and traumatized residents.¹⁹⁸ Dr. Stefan Bradley pointed in particular to the role of Federal Program 1033 in militarizing police forces,¹⁹⁹ which has contributed to increasingly militaristic responses to both policing protests and policing more broadly.²⁰⁰ On January 16, 2015, President Obama addressed the effects of this program by creating the Federal Law Enforcement Equipment Working Group, whose May 2015 report prohibited weaponized vehicles (for example, tanks) from being transferred to local departments and developed controls for equipment like armored vehicles and riot gear.²⁰¹ However, limiting the transfer of certain equipment does not prevent an agency from purchasing the equipment with non-federally allocated funds. As an alternative to a militaristic response, Chief Williams of the Springfield Police Department emphasized the importance of maintaining relationships in the community so that community members feel comfortable approaching the police department prior to a protest.²⁰² He also testified to the need for police officers to know when to act as “guardians” and when to act as “warriors,” as well as being able to flip that switch back as soon as it is safe to do so.²⁰³ Other officers also endorsed people’s rights to participate in peaceful demonstrations, but drew a line when civil disobedience or violence begins.²⁰⁴ With acknowledgement to the challenge of balancing both community safety and community rights to free speech and assembly, it is clear that the strategies police departments use for responding to protests have a large effect on their relationships with the community.

¹⁹⁸ Blackmon Testimony, *St. Louis Transcript*, p. 110 line 17 through p.112 line 15; Holmes Testimony, *Kansas City Transcript*, p. 236 lines 01 through 15

¹⁹⁹ Bradley Testimony, *St. Louis Transcript*, p. 16 lines 05 through 07. Federal Program 1033 allows the Pentagon to send excess military equipment to local, state, and federal law enforcement agencies. *See* 10 U.S.C § 2576, et. seq.

²⁰⁰ Nehrt-Flores Testimony, *St. Louis Transcript*, p. 129 lines 05 through 11.

²⁰¹ Law Enforcement Equipment Working Group, *Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition*, p.04. May 2015. Available at: <https://www.bja.gov/programs/LE-Equipment-WG-Final-Report.pdf> (last accessed June 15, 2016)

²⁰² Williams Testimony, *Kansas City Transcript*, p. 209 lines 07 through 13. *See also* Hundley testimony, *Kansas City Transcript*, p. 290 line 01 through p. 291 line 22.

²⁰³ Williams Testimony, *Kansas City Transcript*, p. 210 lines 01 through 14.

²⁰⁴ Sharp Testimony, *Kansas City Transcript*, p. 208 lines 09 through 18; Hundley Testimony, *Kansas City Transcript*, p. 290 lines 01 through 05.

V. FINDINGS AND RECOMMENDATIONS

Among their duties, advisory committees of the U.S. Commission on Civil Rights are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.²⁰⁵ Below, the Missouri Advisory Committee offers to the Commission a summary of concerns regarding racial disparities in the use of force and police and community relations more broadly. Following these findings, the Committee proposes for the Commission's consideration several recommendations that apply both to Missouri and to the nation as whole.

a. Findings

1. Many people of color continue to live in segregated communities. This has almost certainly contributed to a climate of mistrust between members of the community and the police, and it continues to shape current interactions between these groups.
2. Beyond arrest-related deaths, data on police use of force is limited. Without sufficient and accurate data, data-driven conclusions about racial disparities in use of force cannot be made.
3. Implicit racial biases can drive increased contact with law enforcement and result in more fatal outcomes from these encounters for people of color.

3.1 Black children, particularly black boys, are perceived as older and less innocent than white children. These implicit associations contribute to racial disparities in the policing of children and rob black children of the ability to make, and learn from, their own child-like errors.

3.2 Interactions between police and community members, particularly in communities of color, often escalate quickly. This both reflects and further contributes to the existing tensions and biases between these groups.

3.3 Police are increasingly asked to fill roles beyond their training and scope of duties. With increasing demands, anti-bias training is often not given priority. This training, however, is at least one step that could be taken to better prepare police officers to perform their new roles in a way that increases public safety.

²⁰⁵ 45 C.F.R. § 703.2

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3.4 The low priority given to diversity or cultural competency training is systematic across law enforcement departments in the state.

4. An abundance of fragmented municipalities has segregated the St. Louis area by race and class, which in turn has contributed to inconsistent policing practices throughout the city and county. This fragmentation has left several primarily black municipalities without the commercial industry necessary to generate sufficient revenue for municipal services. Some of these municipalities have involved their police in generating needed revenue through court fines and fees, which have been levied primarily against black residents.
5. When police are not accountable to the communities they serve, their relationship with the community suffers.

5.1 In police departments that practice a “Code of Silence,” the “us” versus “them” mentality undermines community trust and safety. This mentality is particularly harmful to communities of color when the culture infusing a department includes racialized interpretations of criminality.

5.2 The lack of standardization and oversight across departments undermines community trust throughout the state, as community members do not know what to expect from any given officer with whom they interact.

5.3 Law enforcement departments in Missouri tend to rely more heavily on internally-generated metrics for identifying officer misconduct than civilian complaint processes. This limits transparency to the community and can contribute to a perception that police are not being held accountable for misconduct. Additionally, concerns exist around departments’ responses to police misconduct, including the failure to revoke certification from an officer, which allows them to continue policing for another department.

5.4 Missouri’s standards for criminal liability in deadly use of force are high, making it difficult to indict and prosecute police in many of these cases. Additionally, prosecutors often choose to use a grand jury, which obscures the process from the public and rarely results in indictments. These conditions may be particularly salient for communities of color, where the frequency of police and community contact is disproportionately high.

6. Integrating a philosophy of community policing offers departments an opportunity for stronger community relationships than does intelligence-led policing, which may distance the community. A commitment to community policing can work synergistically with safer policing of protests and fostering a more diverse police force.

b. Recommendations

1. The U.S. Commission on Civil Rights (Commission) should issue a formal request to the U.S. Department of Justice (DOJ) to:
 - A. Assess the feasibility of issuing minimum national licensure requirements, including demonstrated cultural competency, for law enforcement officers and departmental leaders serving in all city, county, and statewide capacities.
 - B. Maintain a national database of discipline records so that officers disciplined in one state cannot transfer to another state for work.
 - C. Assess its ability to establish a governing body to handle police misconduct cases when state and local systems fail; the state agency responsible for this in Missouri was reported to be too underfunded to be effective.
 - D. Examine the use of grand juries for investigating and indicting police-involved fatalities, then define and report to the public best practices for prosecuting deaths at the hands of police, including both the possibilities of appointing independent prosecutors and pursuing accountability beyond criminal liability.
2. The Commission should issue a formal recommendation to the U.S. Department of Justice, Federal Bureau of Investigation (FBI) urging them to:
 - A. Require law enforcement agencies to report more comprehensive data on police use of force and officer-involved shootings—including non-lethal use of force, disaggregated by race. Such data is critical to better understanding potential disparities in police conduct, as well as the impact on affected communities.
 - B. Create standardized definitions of all actions that fall on the use of force continuum and disseminate these to local agencies in order to ensure consistent data collection.
 - C. Consider offering financial and/or technical support to ensure smaller, local agencies with limited resources can keep up with data collection.
3. The Commission should issue a formal request to the U.S. Department of Justice, Civil Rights Division to:
 - A. Conduct a comprehensive investigation into the civil rights consequences of local law enforcement agencies owning military-grade equipment, including (1) which agencies are receiving or purchasing this military-grade equipment, (2) which communities it is being used in, and (3) what racially disparate effects may exist in its use.

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- B. Investigate the allegations laid out in this report to the effect that “hot spot” policing practices may threaten civil liberties and thereby contribute to a climate of mistrust.
 - C. Investigate the extent to which law enforcement departments may unconsciously favor “hot spot” policing methods over community policing because “hot spot” policing produces more visible and immediate results.
4. The Commission should issue a formal recommendation to the Department of Justice, Community Oriented Policing Services (COPS) to include the provision that new law enforcement hires made using COPS Hiring Program grant funds must demonstrate proficiency in cultural competency prior to being employed. The importance of cultural competency in implementing community policing initiatives was underscored throughout testimony provided to the Committee. Therefore, if a stated goal of the COPS Hiring Program is to increase community policing capacity in local agencies, the officers involved in community initiatives must be adequately prepared.
 5. The Commission should issue a formal recommendation urging the United States Congress to pursue legislation that would decouple law enforcement agencies from municipal revenue generation, similar to Missouri Senate Bill 5, which caps the amount of general operating revenue that can be collected from traffic fees.

VI. APPENDIX

A. Hearing agendas

- February 23, 2015, St. Louis, MO
- August 20, 2015, Kansas City, MO

B. Complaints of police misconduct submitted to the Committee in oral or written testimony

C. Non-participating individuals and organizations invited to testify

U.S. COMMISSION ON CIVIL RIGHTS



The Impact of Community and Police Interactions on Individual Civil Rights in Missouri

Hosted By:

The Missouri Advisory Committee to the U.S. Commission on Civil Rights

Date:

Monday February 23, 2015

Time:

8:00 a.m.—5:30 p.m.

Location:

J.C. Penny Conference Center Auditorium
University of Missouri St. Louis

1 University Drive
St. Louis, MO 63121

U.S. COMMISSION ON CIVIL RIGHTS

Midwestern Regional Office
55 West Monroe
Suite 410
Chicago IL, 60603

Phone: 312-353-8311
Fax: 312-353-8324
Online: www.usccr.gov

The Missouri Advisory Committee to the United States Commission on Civil Rights is hosting a public meeting to hear testimony regarding civil rights concerns related to community and police interactions in the State. This meeting is free and open to the public. Live streaming will be available on the Commission website: www.usccr.gov.

- *Opening Remarks and Introductions (8:00am-8:15am)*
 - *Panel 1: Academic (8:15am-9:30am)*
 - *Panel 2: Community I (9:35am-10:30am)*
 - *Panel 3: Community II (10:40am-11:55am)*
 - *Open Forum I (12:00pm-12:30pm)*
- *Break (12:30-1:30pm)*
 - *Panel 4: Law Enforcement (1:30pm-2:45pm)*
 - *Panel 5: Government (2:50pm-4:05pm)*
 - *Open Forum II (4:15pm-5:15pm)*
- *Closing Remarks (5:15pm-5:30pm)*

The Committee will hear public testimony during the two open forum sessions, as time allows. Please arrive early if you wish to speak. For more information please contact the Midwestern Regional Office of the U.S. Commission on Civil Rights.

State Advisory Committees to the U.S. Commission on Civil Rights are composed of state citizens who serve without compensation. The Committees advise the Commission of civil rights issues in their states, providing recommendations and advice regarding such matters to the Commission.

Agenda

Opening Remarks and Introductions (8:00-8:15am)

Academic Panel (8:15-9:30am)

Dr. Richard Rosenfeld, University of Missouri St. Louis
Dr. Justin Hansford, St. Louis University
Dr. Stefan Bradley, St. Louis University
Dr. Marva Robinson, Association of Black Psychologists

Community I Panel (9:35-10:30am)

Ms. Pamela Meanes, National Bar Association
Mr. Adolphus Pruitt, NAACP St. Louis
Mr. Marius Johnson-Malone, Better Together

Community II Panel (10:40-11:55am)

Rev. Traci Blackmon, Christ the King Church
Mr. James Clark, Better Family Life
Ms. Charli Cooksey, Young Citizen's Council of St. Louis
Mr. J. Alfredo Chávez, Latinos en Acción St. Louis
Mr. David Nehrt-Flores, MO Immigrant and Refugee Advocates

Open Forum I (12:00-12:30pm)

Break (12:30-1:30pm)

Law Enforcement Panel (1:30-2:45pm)

Chief Jon Belmar, St. Louis County Police
Chief Frank McCall, Berkeley Police
Chief Sam Dotson and Captain Mary Edwards-Fears, St. Louis Metropolitan Police
Colonel Ronald Replogle and Captain Rex Scism, MO Highway Patrol
Chief Thomas Jackson, Ferguson Police (withdrew)

Government Panel (2:50-4:05pm)

Dr. Daniel Isom, MO Department of Public Safety
Ms. Sandra Webb, U.S. Department of Justice, Community Oriented Policing Services
Dr. Ellen Scrivner, The Police Foundation
Ms. Tishaura Jones, St. Louis City Treasurer and Young Citizen's Council of St. Louis

Open Forum II (4:15-5:15pm)

Closing Remarks (5:15-5:30pm)

U.S. COMMISSION ON CIVIL RIGHTS



The Impact of Community and Police Interactions on Individual Civil Rights in Missouri

Hosted By:

The Missouri Advisory Committee to the U.S. Commission on Civil Rights

Date:

Thursday August 20, 2015

Time:

10:30 a.m.—7:00 p.m.

Location:

Bruce R. Watkins Cultural Heritage Center

3700 Blue Parkway,
Kansas City, MO 64130

U.S. COMMISSION ON CIVIL RIGHTS

Midwestern Regional Office
55 West Monroe
Suite 410
Chicago IL, 60603

Phone: 312-353-8311
Fax: 312-353-8324
Online: www.usccr.gov

The Missouri Advisory Committee to the United States Commission on Civil Rights is hosting a public meeting to hear testimony regarding civil rights concerns related to community and police interactions in the State. This meeting is free and open to the public.

- *Opening Remarks and Introductions (10:30am-10:45am)*
 - *Panel 1: Academic & Government (10:45am-12:00pm)*
 - *Open Forum I (12:00pm-12:30pm)*
- *Break (12:30pm-2:00pm)*
 - *Panel 2: Community I (2:00pm-3:15pm)*
 - *Panel 3: Law Enforcement (3:20pm-4:35pm)*
- *Break (4:35pm-4:55pm)*
 - *Panel 4: Community II (4:55pm-6:10pm)*
 - *Open Forum II (6:15pm-6:45pm)*
- *Closing Remarks (6:45pm-7:00pm)*

The Committee will hear public testimony during the two open forum sessions, as time allows. Please arrive early if you wish to speak. For more information please contact the Midwestern Regional Office of the U.S. Commission on Civil Rights.

State Advisory Committees to the U.S. Commission on Civil Rights are composed of state citizens who serve without compensation. The Committees advise the Commission of civil rights issues in their states, providing recommendations and advice regarding such matters to the Commission.

Agenda

Opening Remarks and Introductions (10:30am-10:45am)

Academic & Government Panel (10:45am-12:00pm)

Dr. Dan Claiborn, Counseling and Forensic Psychologist
Dr. Ken Novak, Professor of Criminology, University of Missouri Kansas City
Mr. Alvin Brooks, President, Kansas City Board of Police Commissioners
Ms. Jean Peters Baker, Jackson County Prosecutor

Open Forum I (12:00pm-12:30pm)

Break (12:30pm-2:00pm)

Community I Panel (2:00pm-3:15pm)

Mr. Damon Daniel, Ad Hoc Group Against Crime
Mr. Herston Fails, 100 Black Men of Kansas City
Ms. Sarah Rossi, ACLU of Missouri
Mr. Montague Simmons, Organization for Black Struggle

Law Enforcement Panel (3:20pm-4:35pm)

Chief Paul Williams, Springfield Police Department
Sheriff Mike Sharp, Jackson County Sheriff's Office
Mr. Merrell Bennekin, Office of Community Complaints, Kansas City Police

Break (4:35pm-4:55pm)

Community II Panel (4:55pm-6:10pm)

Pastor Floyd Wiggins III, Living Word Testament Church
Ms. Gloria Ortiz Fisher, The Westside Housing Organization
Ms. Taylor Holmes, Urban League of Kansas City
Mr. William Whitcomb, NAACP of Kansas City Missouri

Open Forum II (6:15pm-6:45pm)

Closing Remarks (6:45pm-7:00pm)

APPENDIX B

Complaints of police misconduct submitted to the Committee in oral or written testimony

While this report focuses on the overall trends in police use of force throughout Missouri, the Committee considers it important to give proper attention also to the individual instances of harm that members of the public shared. Below is a compilation of all instances of police misconduct submitted to the Committee by panelists or members of the public over the course of this project.

- A black man was walking through the parking lot of a mall in the St. Louis area in order to get to his job at a motel nearby. He was stopped by a police officer who questioned him, ran him, and told him to find another way to get to work. Some days later, he was walking through the parking lot again when the same officer stopped him, questioned him, and told him he had outstanding warrants. The officer placed the man under arrest, handcuffed him behind his back, and put him in the patrol car. The officer then drove at high speed over speed bumps, causing the man to be bounced around and to hit his head against the car.¹
- Mr. Johnson, a black man, was driving drunk and stopped his car because he was lost and confused. Police officers arrived at the scene, handcuffed Mr. Johnson, and called for an appropriate patrol car to come pick him up. While waiting, the officer and Mr. Johnson reportedly got into an altercation which caused the officer to use his Taser on Mr. Johnson 12 times in 90 seconds. Other officers arrived on the scene, and during the time it took them to get Mr. Johnson in control, he became unresponsive. An ambulance arrived on the scene and took Mr. Johnson to the emergency room. The officers reportedly refused to uncuff Mr. Johnson at the paramedic's request while Mr. Johnson's health deteriorated in the ambulance. They later uncuffed him at a doctor's request. Unfortunately, Mr. Johnson died within 48 hours of this event.²
- Two brothers, ages 18 and 14, were pulled over by a Florissant police officer, whom they had previously filed a complaint against for mistreating them. The officer reached in through the window, pulled out the older brother, and began to beat him. The younger brother tried to stop the officer from hurting his older brother, and the altercation got so rough that the cast on the younger brother's arm was broken off. The two brothers were arrested and taken to juvenile court, but the charges were eventually dropped. The family moved and now lives in constant fear of retaliation from the police.³
- On November 16, 2013, Alberta Mejia, a Latina and resident of St. Ann, Missouri, was pulled over by a St. Ann police officer. The officer claimed her lights were not working, although Ms. Mejia believes that they were. The officer asked for her Social Security card, and when she replied that she had one but it was at home, the officer asked her to get out of her car and handcuffed her. She was taken to the St. Ann Police department, fingerprinted and put into a cell. There, she was asked to remove all of her clothing. She refused to remove her bra and underwear at first but complied after the officers became angry. A camera was on her the entire time. She was taken to a cell with 14 other women, where she

¹ Pruitt Testimony, *St. Louis Transcript*, p. 57 line 18 through p. 58 line 19.

² Pruitt Testimony, *St. Louis Transcript*, p. 58 line 20 through p. 61 line 23.

³ Pruitt Testimony, *St. Louis Transcript*, p. 61 line 24 through p. 63 line 07.

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stayed for two nights. She was given little food and was not allowed to speak with her family for 24 hours. She was released when her friend was able to pay \$400 for her bail.⁴

- On July 28, 2013, Ryan Stokes, a black man, went to the Power & Light District in Kansas City with his friends. At the end of the night, a drunk man accused Mr. Stokes' friend of stealing his phone. This accusation escalated into the two groups of friends pushing each other. An officer nearby pepper sprayed the entire group and told them to disperse. Mr. Stokes' friend had pepper spray in his eyes and handed Mr. Stokes his car keys. Mr. Stokes then ran off to get the car. As Mr. Stokes ran to the car, the drunk man told the officer that Mr. Stokes had stolen his phone. The officer then called in that he was pursuing a suspect on foot. Less than 20 seconds later, Mr. Stokes was critically wounded. Responding to this call, Officer William Thompson had entered the parking lot from the side opposite Mr. Stokes and shot Mr. Stokes. While police claimed Mr. Stokes was armed and refused to comply with police orders, no gun was found on Mr. Stokes. The wounds from Officer Thompson's shots killed Mr. Stokes. A grand jury chose not to indict Officer Thompson, and a year later, Officer Thompson and his partner were awarded medals for their actions that night.⁵ The victims of the alleged theft later came to the police and told them that they were drunk; they did not know what had happened to the phone. It may not have been stolen.⁶
- The Kansas City Anti-Violence project, which works with LGBTQ survivors of domestic violence, sexual assault, and hate crimes, reported that two clients who experienced biased crimes were actually re-victimized when they reported these crimes to the police. Straight activists have told them that they were called "faggots" while detained by police in order to demean them. They also report the Kansas City Police Department posted a transphobic tweet on Twitter using the term "he/she."⁷
- Panelist Herston Fails, a black man, reported being racially profiled in South Carolina, where he was pulled over and harassed on his way back to college.⁸
- Panelist Damon Daniel, a black man, described his frequent experience of "Driving While Black" and provided an example: When he was 16 years old, he was pulled over by a police officer. He was asked to step out of the car and put his hands on the trunk. The officer searched him thoroughly and then proceeded to run his license, leaving Mr. Daniel to wait there for 10 minutes. The officer returned and let Mr. Daniel go. When Mr. Daniel asked why he had been stopped, the officer told him that a car that looked like his had been stolen.⁹
- Panelist Montague Simmons, a black man, described his first interaction with police when he was 13 years old: As he was walking home, a police officer pulled over next to him. The officer had Mr. Simmons and his friend lie spread eagle on the ground and went through their backpacks. Mr. Simmons described this as "normalized behavior."¹⁰
- Deborah Curry, a black woman and a resident of Blue Springs, Missouri, was followed by a police officer as she delivered invitations around town for her granddaughter's wedding.

⁴ Mejia Testimony, *St. Louis Transcript*, p. 146 line 05 through p. 148 line 13. [Translated by Mr. Nehrt-Flores.]

⁵ Stokes-James Testimony, *Kansas City Transcript*, p. 73 line 18 through p. 79 line 20.

⁶ Short Testimony, *Kansas City Transcript*, p. 83 lines 03 through 06.

⁷ McClannahan testimony, *Kansas City Transcript*, p. 89 lines 07 through 19.

⁸ Fails Testimony, *Kansas City Transcript*, p. 103 line 25 through p. 104 line 04.

⁹ Daniel Testimony, *Kansas City Transcript*, p. 113 line 21 through p. 114 line 22.

¹⁰ Simmons testimony, *Kansas City Transcript*, p. 125 line 25 through p. 126 line 11.

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This led the police officer to her nephew's house. Shortly after Ms. Curry left his house, the police had the house surrounded. Ms. Curry attempted to file a complaint with the department, but she never got a meeting with anyone in the department like she requested. The same officer who followed her later pulled her over again and began questioning her. She reported that he continued to harass her and follow her.¹¹

- Kristin Chow, a member of One Struggle KC, reported that a trans member of their group had been threatened to be raped by a Kansas City Police Officer. A female veteran involved in their work was physically abused by the Kansas City Police. She stated that the list of these examples goes on and on.¹²
- On August 23, 2014, Lawrence Myrick, a black man, reported that he was pulled over for not stopping completely at a stop sign by Kansas City Police. The officers gave him tickets for running a stop sign and for drinking and driving. In the process, the officers made racially biased jokes, joked about doing a "dead on arrival" to him, threatened him with physical abuse, and ransacked his car looking for drugs. He was handcuffed and placed in a paddy wagon, where the officers failed to strap him in, leaving him to be tossed around as they drove. Mr. Myrick was charged with a \$1000 fine and placed on a year of unsupervised parole. He has filed complaints with several organizations, but he continues to live in fear of retaliation from the police.¹³
- Diane Burkholder, co-founder of One Struggle KC, recalled the fatal shooting of 21-year-old black man, Javon Hawkins, by a Kansas City police officer. She reported that the Kansas City Police Department did not issue a statement about the conditions of his death, aside from the fact that he died. When community activists tweeted at Chief Darryl Forte, he responded three days later, "I was held up but I was taking care of a sick hamster. It would have been inappropriate." Ms. Burkholder described this response as a dismissal.¹⁴
- A woman reported to One Struggle KC that during a protest walk on November 26, 2014, a Kansas City Police officer on horseback began exchanging some words with protestors nearby her. She reported that the officer was trying to get the protestors to move onto a curb that was not there, when his horse reared up and landed directly on her foot. When she cried out, the officer told her to get onto the sidewalk again. She went to the hospital, where an x-ray revealed her big toe was broken. She filed a complaint, but her case was dropped when she would not take a lie detector test.¹⁵
- A man reported to One Struggle KC that the Kansas City Police Department illegally spied on an Occupy KC meeting without a search warrant. He has also been arrested and detained without cause multiple times by Kansas City Police while protesting police road checkpoints.¹⁶
- A man reported to One Struggle KC that the administrator for the Kansas City Municipal Court was printing warrants without a judge's name or signature. When he called the Board of Police Commissioners, he was put into contact with head legal counsel, Virginia

¹¹ Curry Testimony, *Kansas City Transcript*, p. 265 line 13 through p. 274 line 01.

¹² Chow Testimony, *Kansas City Transcript*, p. 275 lines 02 through 08.

¹³ Myrick Testimony, *Kansas City Transcript*, p. 276 line 19 through p. 279 line 24.

¹⁴ Burkholder Testimony, *Kansas City Transcript*, p. 286 line 18 through p. 287 line 11. *Tweets available at:* <http://www.tonyskansascity.com/2015/07/tkc-must-see-kansas-city-protestors.html> (last accessed June 15, 2016)

¹⁵ Written testimony provided by One Struggle KC.

¹⁶ Written testimony provided by One Struggle KC.

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Murray. His report claims that once Ms. Murray understood what he was calling about, her office, the Board of Commissioners, and the Chief Forte's office began ignoring him.¹⁷

- A man reported to One Struggle KC that Kansas City Police severely beat him on March 5, 1995. When he complained to the Office of Community Complaints, things got worse. On April 16, 1996, the police kicked him out of a window, shattering both of his ankles, causing a laceration on his wrist, and giving him a back injury. He reported the abuse continues to this day. In December 2014, the police arrived at his home, kicked in his door, and beat him. Afterwards, he was taken to jail on frivolous charges. He reported that men wearing Kansas City Police uniforms and badges have beaten and arrested him on several occasions.¹⁸
- A woman reported to One Struggle KC that on September 21, 2015, she was stopped at a stoplight by Kansas City Police officers. Immediately, her car was surrounded by police officers with their weapons aimed at her. She complied with all instructions to exit her car and lie down on the pavement. While on the ground, she was handcuffed and informed that a woman had been driving past a man's house in the area and pointing a gun. The police informed her that her car matched the description of a silver car with a dent in front. The woman informed the officers that her car was gold. She allowed the police to search her car, and eventually they allowed her to go without offering an apology. She reported that having multiple guns pointed at her before being offered any explanation has left her with an indescribable fear.¹⁹
- A man reported to One Struggle KC that on August 21, 2015, he was slammed to the ground and arrested while attempting to film a Kansas City Police officer arresting his friend. In jail, he was kept in solitary confinement for several days and denied medical care for two seizures. He reported being arrested again on August 31, 2015 while participating in a peaceful protest. Police officers ordered him to stay out of the crosswalk while he was trying to cross the street. He proceeded to cross, was tackled, arrested, and given the same treatment in jail as before.²⁰

¹⁷ Written testimony provided by One Struggle KC.

¹⁸ Written testimony provided by One Struggle KC.

¹⁹ Written testimony provided by One Struggle KC.

²⁰ Written testimony provided by One Struggle KC.

APPENDIX C

Non-Participating individuals and organizations invited to testify regarding police and community relations in Missouri

St. Louis, Missouri

1. Ferguson Police Department, Chief Thomas Jackson (*withdrew*)
2. Berkeley Missouri Police Department, Chief Frank McCall (*no show*)
3. U.S. Department of Justice Community Relations Services (*declined*)
4. U.S. Department of Justice Civil Rights Division (*declined*)
5. U.S. Department of Justice United States Attorney's Office, Eastern District of Missouri (*declined*)
6. Missouri Governor Jay Nixon (*declined*)
7. Missouri Attorney General Chris Koster (*declined*)
8. Federal Bureau of Investigation Civil Rights Division (*declined*)
9. Dr. Art McCoy, former superintendent, Ferguson MO school district (*unavailable*)
10. Ferguson Commission members Brittany Packnett (*unavailable*) and Rasheen Aldridge, Jr. (*declined*)
11. Dr. Freddy Clark, Shalom Church (*declined*)
12. Arch City Defenders, St. Louis (*no response*)
13. Family of Michael Brown (*no response*)

Kansas City, Missouri

1. Kansas City Police Department, Chief Darrell Forte (*withdrew*)
2. Raytown Police Department, Chief James Lynch (*withdrew*)
3. Grandview Police Department, Chief Charles Iseman (*withdrew*)
4. Raymore Police Department, Chief Jan Zimmerman (*unavailable*)
5. Missouri Attorney General Chris Koster (*declined*)
6. Kansas City Mayor Sly James (*declined*)

Missouri Advisory Committee to the United States Commission on Civil Rights



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